

PART 1955 - PROPERTY MANAGEMENT

Subpart A - Liquidation of Loans Secured by Real Estate and
Acquisition of Real and Chattel Property

Table of Contents

<u>Sec.</u>		<u>Page</u>
1955.1	Purpose.	1
1955.2	Policy.	1
1955.3	Definitions.	2
	Closing agent.	2
	CONACT or CONACT property.	2
	Farmer Program loans.	2
	Government.	2
	Homestead protection.	2
	Interest credit.	2
	Loans to individuals.	2A
	Loans to Native Americans.	2A
	Loans to organizations.	2A
	Market value.	3
	Nonrecoverable cost.	3
	OGC.	3
	Prior lien.	3
	Recoverable cost.	3
	Servicing official.	3
1955.4	Redelegation of authority.	3
1955.5	General actions.	4
	(a) Assignment of notes to Rural Development.	4
	(b) Execution of documents.	4
	(c) Unused loan funds.	5
	(d) Payment of costs.	5
	(e) Escrow funds.	5
1955.6	- 1955.8 [Reserved]	5
1955.9	Requirements for voluntary conveyance of real property located within a federally recognized Indian reservation owned by a Native American borrower-owner.	5

RD Instruction 1955-A
Table of Contents
Page 2
(Revision 1)

<u>Sec.</u>		<u>Page</u>
1955.10	Voluntary conveyance of real property by the borrower to the Government.	6B
	(a) Authority.	6C
	(b) Forms and documents.	7
	(c) Liens against the property other than FmHA liens.	7
	(d) Offer of voluntary conveyance.	8
	(e) Appraisal of property.	10
	(f) Processing offer to convey security and acceptance by FmHA.	10
	(g) Closing of conveyance.	16
	(h) Actions to be taken after closing conveyance.	16
1955.11	Conveyance of property to FmHA by trustee in bankruptcy.	17
	(a) Authority.	17
	(b) Fees and deed.	17
	(c) Acceptance.	18
	(d) Reporting.	18
1955.12	Acquisition of property which served as security for a loan guaranteed by FmHA or at sale by another lienholder, bankruptcy trustee, or taxing authority.	18
1955.13	Acquisition of property by exercise of Government redemption rights.	18
1955.14	Release of a junior lien on HUD/FmHA joint security.	18
1955.15	Foreclosure by the Government of loans secured by real estate.	18A
	(a) Authority.	18A
	(b) Problem case report.	19
	(c) Submission of problem case.	20
	(d) Approval of foreclosure.	20A
	(e) Referral of case.	26
	(f) Completion of foreclosure.	27
	(g) Reports on sale and finalizing foreclosure.	29

<u>Sec.</u>	<u>Page</u>
1955.16 - 1955.17 [Reserved]	29
1955.18 Actions required after acquisition of property.	29
(a) Reporting acquisition.	29
(b) Existing lease.	30
(c) Existing management agreement.	30
(d) Inventory account.	30A
(e) Credit to the borrower's account or foreclosure judgment account.	31
(f) Unsatisfied account.	32
(g) Deficiency judgment.	32
(h) Homestead protection.	32
(i) Priority disposal of inventory property.	33
(j) Debt Settlement.	33
(k) Effect of acquisition on tenants in multi-family projects.	33
1955.19 [Reserved]	33
1955.20 Acquisition of chattel property.	34
(a) Purchase at the following types of sale.	34
(b) Voluntary conveyance.	34
(c) Attending sales.	34A
(d) Appraising chattel property.	35
(e) Abandonment of security interest.	35
(f) Bidding at sale.	35
(g) Payment of costs.	36
(h) Reporting acquisition of chattel property.	36
1955.21 Exception authority.	36
1955.22 State Supplements.	36
1955.23 - 1955.49 [Reserved]	36
1955.50 OMB control number.	37

Exhibits to Subpart A

Exhibit A - Report on Multiple-Family Housing Problem Case.

Exhibit B - Format for Notice of Acceleration to Borrowers
Other Than FP and MFH Personally Liable for the
Debt (Excludes Borrowers Who Were Discharged in
Bankruptcy and Did Not Reaffirm the Debt).

- Exhibit C - Format for Notice of Acceleration to Borrowers
Other Than FP and MFH Discharged in Bankruptcy
Who Have Not Reaffirmed the Debt.
- Exhibit D - Notice of Acceleration of Farmer Program Loan Accounts Secured by
Real Estate and/or Chattels in Cases not Involving Bankruptcy.
- Exhibit E - Notice of Acceleration of Farmer Program Loan Accounts Secured by
Real Estate and/or Chattels in Cases Involving Bankruptcy
- Exhibit E-1 Notice of Acceleration of Farmer Program Loan
Accounts Secured by Real Estate and/or Chattels in Cases
Involving Chapter 11, 12, and 13 Bankruptcy Borrowers.
(Use only with OGC's approval for borrowers discharged under
Chapters 11, 12, or 13)
- Exhibit F - Notice of the FmHA Debt Still Owed and
Advising of the Availability of Debt Settlement.
- Exhibit G - Worksheet for Accepting a Voluntary Conveyance of
Farm Credit Programs Security Property into Inventory.
- Exhibit G-1 Worksheet for Determining Farm Credit Programs Maximum
Bid on Real Estate Property.
- Exhibit H - Format for Notice of Acceleration to MFH Borrowers
Liable for the Debt (Excludes Borrowers Who Were
Discharged in Bankruptcy and Did Not Reaffirm the
Debt.)
- Exhibit I - Format for Notice of Acceleration to MFH Borrowers
Discharged in Bankruptcy Who Have Not Reaffirmed the
Debt.
- Exhibit J - Release of a Junior Lien on HUD/FmHA Joint SFH Security.

(Note: Exhibits G and G-1 are published in the Federal Register.
All other Exhibits and Guide Letters 1955-A-1 and A-2 are available in any
Rural Development office.)

PART 1955 - PROPERTY MANAGEMENT

Subpart A - Liquidation of Loans Secured by Real Estate
and Acquisition of Real and Chattel Property

§ 1955.1 Purpose.

This subpart delegates authority and prescribes procedures for the liquidation of loans to individuals and to organizations as identified in § 1955.3 of this subpart. It pertains to the Farm Credit programs of the Farm Service Agency (FSA), Water and Waste programs of the Rural Utilities Service (RUS), Multi-Family Housing (MFH) and Community Facility (CF) programs of the Rural Housing Service (RHS), and direct programs of the Rural Business-Cooperative Service (RBS). Guaranteed RBS loans are liquidated upon direction from the Deputy Administrator, Business Program, RBS. This subpart does not apply to RHS single family housing loans, or to CF loans sold without insurance in the private sector. These CF loans will be serviced in the private sector and future revisions to this subpart no longer apply to such loans. (Revised 12-23-96, SPECIAL PN.)

§ 1955.2 Policy.

When it has been determined in accordance with applicable loan servicing regulations that further servicing will not achieve loan objectives and that voluntary sale of the property by the borrower, except for Multiple Family Housing (MFH) loans subject to prepayment restrictions, cannot be accomplished, the loan(s) will be liquidated through voluntary conveyance of the property to the RBS, RHS, RUS, FSA or by foreclosure as outlined in this subpart. For MFH loans subject to the prepayment restrictions, voluntary liquidation may be accomplished only through voluntary conveyance to RBS, RHS, RUS, and FSA in accordance with applicable portions of § 1955.10 of this subpart. Nonprogram (NP) loans, except for Community and Business Programs, will be liquidated as provided in Subpart J of Part 1951 of this chapter, unless specifically referenced in this subpart. (Revised 11-12-93, SPECIAL PN.)

DISTRIBUTION: WSDC

Account Servicing
Property Management

§ 1955.3 Definitions.

As used in this subpart, the following definitions apply:

Closing agent. An attorney or title insurance company which is approved as a loan closing agent in accordance with Subpart B of Part 1927 of this chapter. (Revised 03-31-92, SPECIAL PN.)

CONACT or CONACT property. Property acquired or sold pursuant to the Consolidated Farm and Rural Development Act. Within this subpart, it shall also be construed to cover property which secured loans made pursuant to the Agriculture Credit Act of 1978; the Emergency Agricultural Credit Adjustment Act of 1978; the Emergency Agricultural Credit Act of 1984; the Food Security Act of 1985; and other statutes giving agricultural lending authority to the FSA.

Farmer Program loans. The term "farmer program loans" (FP) refers to the following types of loans: Farm Ownership (FO), Soil and Water (SW), Recreation (RL), Economic Opportunity (EO), Operating (OL), Emergency (EM), Economic Emergency (EE), Softwood Timber (ST), and Rural Housing loans for farm service buildings (RHF). (Added 04-17-91, SPECIAL PN.)

Government. The United States of America acting through RBS, RHS, RUS, and FSA of the U.S. Department of Agriculture.

Homestead protection. The Farmer Programs borrower-owner's right to lease with an option to purchase the principal residence located on or off the farm and up to 10 acres of adjoining land possessed and occupied by the borrower-owner, including a reasonable number of farm outbuildings located on the adjoining land that are useful to the occupants of the homestead.

Interest credit. The terms "interest credit" and "interest credit assistance," as they relate to Single Family Housing (SFH) loans, are interchangeable with the term "payment assistance." Payment assistance is the generic term for the subsidy provided to eligible SFH borrowers to reduce mortgage payments. (Added 10-27-95, SPECIAL PN.)

§1955.3 (Con.)

Loans to individuals. Farm Ownership (FO), Soil and Water (SW), Recreation (RL), Special Livestock (SL), Economic Opportunity (EO), Operating (OL), Emergency (EM), Economic Emergency (EE), Softwood Timber (ST), and Rural Housing loans from farm service buildings (RHF), whether to individuals or entities, referred to in this subpart Farm Credit Programs (FCP) loans; and Land Conservation and Development (LCD); and SFH, including both Sections 502 and 504 loans. (Revised 10-27-95, SPECIAL PN.)

Loans to Native Americans. FP loans secured by real estate located within the boundaries of a federally recognized Indian reservation. The Native American borrower-owner is defined as the party who pledged real estate as collateral for an FP loan and is the tribe or a member of the tribe with control over the reservation. (Added 12-30-93, SPECIAL PN.)

Loans to organizations. Community Facility (CF); Water and Waste Disposal (WWD); Association Recreation; Watershed (WS); Resource Conservation and Development (RC&D); insured Business and Industrial (B&I) both to individuals and groups; Rural Development Loan Fund (RDLF); Intermediary Relending Program (IRP); Nonprofit National Corporations (NNC); loans to associations for Irrigation and Drainage (I&D) and other Soil and Water conservation measures; loans to Indian Tribes and Tribal Corporations; Shift-in-Land Use (Grazing Association); Economic Opportunity Cooperative (EOC); Rural Housing Site (RHS); Rural Cooperative Housing (RCH); Rural Rental Housing (RRH) and Labor Housing (LH) to both individuals and groups. The housing-type organization loans identified here are referred to in this subpart collectively as Multiple Family Housing (MFH) loans.

§ 1955.3 (Con.)

Market value. The most probable price which property should bring, as of a specific date in a competitive and open market, assuming the buyer and seller are prudent and knowledgeable, and the price is not affected by undue stimulus such as forced sale or loan interest subsidy.

Nonrecoverable cost. A contractual or noncontractual program loan cost expense not chargeable to a borrower, property account, or part of the loan subsidy. (Revised 08-05-98 PN 294.)

OGC. The Office of General Counsel, U.S. Department of Agriculture; refers to the Regional Attorney or Attorney-in-Charge in an OGC field office unless otherwise indicated.

Prior lien. A security instrument (such as a mortgage or deed of trust) or a judgment which was of public record before the Rural Development security instrument(s) as well as real estate taxes or assessments which are or will become a lien against the property which is superior to Rural Development's security instrument(s).

Recoverable cost. A contractual or noncontractual program loan cost expense chargeable to a borrower, property account, or part of the loan subsidy. (Revised 08-05-98 PN 294.)

Servicing official. For loans to individuals as defined in this section, the servicing official is the County Supervisor. For insured B&I loans, the servicing official is the State Director. For RDLF and IRP, the servicing official is the Director, Business and Industry Division. For NNC, the servicing official is the Director, Community Facility Division. For all other types of loans, the servicing official is the District Director.

§ 1955.4 Redelegation of authority.

Authorities will be redelegated to the extent possible, consistent with program requirements and available resources.

(a) Any authority in this subpart which is specifically provided to the Administrator or to a Deputy Administrator may only be delegated to a State Director. The State Director cannot redelegate such authority. (Revised 08-20-97, PN 280.)

RD Instruction 1955-A
§ 1955.4 (Con.)

(b) Except as provided in paragraph (a), the State Director is authorized to redelegate, in writing, any authority delegated to the State Director in this subpart to a Program Chief, Program Specialist or Property Management Specialist on the State Office staff; except the authority to approve or disapprove foreclosure as outlined in § 1955.15(a)(2) of this subpart may not be redelegated. However, a duly-designated Acting State Director may approve or disapprove foreclosure. (Revised 2-15-89, PN 102.)

(c) The District Director is authorized to redelegate, in writing, any authority delegated to the District Director in this subpart to an Assistant District Director or District Loan Specialist determined by the District Director to be qualified; except the authority to approve or disapprove foreclosure as outlined in § 1955.15(a)(1) of this subpart may not be redelegated. However, a duly designated Acting District Director may approve or disapprove foreclosure. Authority of District Directors in this subpart applies to Area loan Specialists in Alaska and the Director for the Western Pacific Territories.

(d) The County Supervisor is authorized to redelegate, in writing, any authority delegated to the County Supervisor in this subpart to an Assistant County Supervisor, GS-7, or above, determined by the County Supervisor to be qualified. Authority of County Supervisors in this subpart applies to Area loan Specialists in Alaska and Area Supervisors in the Western Pacific Territories and American Samoa.

(e) The monetary limitations on acceptance of voluntary conveyance as provided in § 1955.10(a) of this subpart may not be redelegated from a higher-level official to a lower-level official.

§ 1955.5 General actions.

(a) Assignment of notes to Rural Development. When liquidation action is approved and the insured note is not held in the County or District Office, the approval official will request the Finance Office to purchase the note and forward it to the appropriate office. Voluntary conveyance may be closed pending receipt of the note(s), and foreclosure may also be processed pending receipt of the note(s), unless the original note is required in connection with the foreclosure action.

(b) Execution of documents.

(1) After liquidation of loans to individuals has been approved by the appropriate official, the County Supervisor is authorized to execute all necessary forms and documents except notices of acceleration required to complete transactions covered by this subpart.

§ 1955.5(b) (Con.)

(2) After liquidation of loans to organizations has been approved by the appropriate official, the District Director is authorized to execute all forms and documents for completion of the liquidation except:

(i) Notices of acceleration; or

§ 1955.5(b)(2) (Con.)

(ii) Other forms or documents which specifically requires State or National Office approval because of monetary limits or policy statement established elsewhere in this subpart.

(c) Unused loan funds.

(1) Funds remaining in a supervised bank account will be handled in accordance with § 1902.15 of Subpart A of Part 1902 of this chapter before a voluntary conveyance or foreclosure is processed.

(2) Funds remaining in a construction or other account will be applied to the borrower's Rural Development account.

(d) Payment of costs. Costs related to liquidation of a loan or acquisition of property will be paid according to RD Instruction 2024-A as either a recoverable or nonrecoverable cost as defined in § 1955.3 of this subpart. (Revised 08-13-92, SPECIAL PN.)

(e) Escrow funds. Any funds remaining in the borrower's escrow account at the time of liquidation by voluntary conveyance or foreclosure are nonrefundable and will be credited to the borrower's loan account. (Added 03-25-91, SPECIAL PN.)

§§ 1955.6 - 1955.8 [Reserved]

§ 1955.9 Requirements for voluntary conveyance of real property located within a federally recognized Indian reservation owned by a Native American borrower-owner. (Added 12-30-93, SPECIAL PN.)

(a) The borrower-owner is a member of the tribe that has jurisdiction over the reservation in which the real property is located. An Indian tribe may also meet the borrower-owner criterion if it is indebted for Farm Credit Programs loans.

(b) A voluntary conveyance will be accepted only after all preacquisition primary and preservation servicing actions have been considered in accordance with Subpart S of Part 1951 of this chapter.

(c) When all servicing actions have been considered under Subpart S of Part 1951 of this chapter and a positive outcome cannot be achieved, the following additional actions are to be taken: (Revised 08-20-97, PN 280.)

(1) The county official will notify the Native American borrower-owner and the tribe by certified mail, return receipt requested, and by regular mail if the certified mail is not received, that:

(i) The borrower-owner may convey the real estate security to FSA and FSA will consider acceptance of the property into inventory in accordance with paragraph (d) of this section;

(ii) The borrower-owner must inform FSA within 60 days from receipt of this notice of the borrower-owner's decision to deed the property to FSA;

(iii) The borrower-owner has the opportunity to consult with the Indian tribe that has jurisdiction over the reservation in which the real property is located, or counsel, to determine if State or tribal law provides rights and protections that are more beneficial than those provided the borrower-owner under Agency regulations;

(2) If the borrower-owner does not voluntarily deed the property to FSA, not later than 30 days before the foreclosure sale, FSA shall provide the Native American borrower-owner with the following options:

(i) The Native American borrower-owner may require FSA to assign the loan and security instruments to the Secretary of the Interior. If the Secretary of the Interior agrees to such an assignment, FSA will be released from all further responsibility for collection of any amounts with regard to the loans secured by the real property.

(ii) The Native American borrower-owner may require FSA to complete a transfer and assumption of the loan to the tribe having jurisdiction over the reservation in which the real property is located if the tribe agrees to the assumption. If the tribe assumes the loans, the following actions shall occur:

(A) FSA shall not foreclose the loan because of any default that occurred before the date of the assumption.

(B) The assumed loan shall be for the lesser of the outstanding principal and interest of the loan or the fair market value of the property as determined by an appraisal.

(C) The assumed loan shall be treated as though it is a regular Indian Land Acquisition Loan made in accordance with Subpart N of Part 1823.

§ 1955.9(c) (Con.)

(3) If a Native American borrower-owner does not voluntarily convey the real property to FSA, not less than 30 days before a foreclosure sale of the property, FSA shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of the following:

(i) The sale;

(ii) The fair market value of the property; and

(iii) The ability of the Native American borrower-owner to require the assignment of the loan and security instruments either to the Secretary of the Interior or assumption by the tribe (and the consequences of either action) as provided above.

(4) FSA shall accept the offer of voluntary conveyance of the property unless a hazardous substance, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, is located on the property and will require FSA to take remedial action to protect human health or the environment if the property is taken into inventory. In this case, a voluntary conveyance will be accepted only if FSA determines that it is in the best interests of the Government to acquire title to the property.

(d) When determining whether to accept a voluntary conveyance of an Native American borrower-owner's real property, the county official must consider:

(1) The cost of cleaning or mitigating the effects if a hazardous substance is found on the property. A deduction equal to the amount of the cost of hazardous waste clean-up will be made to the fair market value of the property to determine if it is in the best interest of the Government to accept title to the property. FSA will accept the property if clear title can be obtained and if the value of the property after removal of hazardous substances exceeds the cost of hazardous waste clean-up.

(2) If the property is located within the boundaries of a federally recognized Indian reservation, and is owned by a member of the tribe with jurisdiction over the reservation, FSA will credit the Native American borrower-owner's account based on the fair market value of the property or the FSA debt against the property, whichever is greater.

§ 1955.10 Voluntary conveyance of real property by the borrower to the Government.

Voluntary conveyance is a method of liquidation by which title to security is transferred to the Government. Rural Development will not make a demand on a borrower to voluntarily convey. If there is equity in the property, Rural Development should advise the borrower, in writing, that there is equity in the property before accepting an offer to voluntarily convey. If Rural Development receives an offer of voluntary conveyance, acceptance should only be considered when the government will likely receive a recovery on its investment. In cases where there are outstanding liens, a full assessment should be made of the debts against the property compared to the current market value. Rural Development should refuse the voluntary conveyance if the Rural Development lien has neither present nor prospective value or recovery of the value would be unlikely or uneconomical. Instead, for loans to individuals, Rural Development should release its lien as valueless in accordance with § 1965.25(d) of Subpart A of Part 1965 of this chapter or § 1965.118(c) of Subpart C of Part 1965, as appropriate. For non-FP borrowers, a voluntary conveyance should only be considered after all available servicing actions outlined in the respective servicing regulations have been used or considered and it is determined that the borrower will not be successful. For FP borrowers, if the borrower has not received Exhibit A with Attachments 1 and 2 of Subpart S of Part 1951 of this chapter, a voluntary conveyance should be accepted only after the borrower has been sent Exhibit A with Attachments 1 and 2 of Subpart S of Part 1951 of this chapter; all available servicing actions outlined in the respective program servicing regulations have been used or considered; and it will be in the Government's best financial interest to accept the FP voluntary conveyance. Exhibit G of this subpart will be used to determine whether or not to accept an FP voluntary conveyance. In determining if the acceptance of the FP voluntary conveyance is in the best financial interest of the Government, the County Supervisor will determine if the borrower has exhausted all possibilities of restructuring the loan to where a feasible plan of operation may be developed, the borrower has acted in good faith in trying to service the debt and Rural Development may recover its investment in return for the acceptance of the voluntary conveyance. In addition, prior to acceptance of a voluntary conveyance of farm real property that collateralizes an FP loan, the County Supervisor will remind the borrower-owner of possible deed restrictions and easements that may be placed on the property in the event the property contains wetlands and floodplains, historic sites and/or other federally protected environmental resources as set forth in Exhibit M of Subpart G of Part 1940 of this chapter and § 1955.137 of Subpart C of this Part. When it is determined that all conditions of § 1951.558(b) of Subpart L of Part 1951 of this chapter have been met, loans for unauthorized assistance will be

§ 1955.10 (Con.)

treated as authorized loans and Exhibit A with Attachments 1 and 2 of Subpart S of Part 1951 of this chapter will be sent prior to accepting a voluntary conveyance. Those borrowers who are indebted for nonprogram (NP) loans who wish to voluntarily convey property will not be sent Exhibit A with Attachments 1 and 2 of Subpart S of Part 1951 of this chapter. For Farmer Program borrowers who have received Exhibit A with Attachments 1 and 2 of Subpart S of Part 1951 of this chapter, a voluntary conveyance should only be accepted when it is determined to be in the Government's best financial interest. Rejection of an offer of voluntary conveyance made before or after acceleration from an FP borrower is appealable. For borrowers having both FP and non-FP loans secured by a farm tract, a voluntary conveyance should be handled as outlined above for non-FP loans secured by farm tracts, except that the applicable servicing option for the FP and non-FP loans should be considered separately. This separation of servicing options may permit a borrower to retain the non-farm tract. For newly constructed SFH properties with major construction defects, see Subpart F of Part 1924 of this chapter. (Revised 12-30-93, SPECIAL PN.)

(a) Authority.(1) Loans to individuals.

(i) SFH loans. The County Supervisor is authorized to accept voluntary conveyances regardless of amount of indebtedness.

(ii) FLP Loans. The servicing official is authorized to accept voluntary conveyance of property secured by Farm Loan Program loans if the total indebtedness against the property including prior and junior liens, does not exceed his/her approval authority for the type of loan (or combination of types) involved in accordance with FSA handbook 1-FLP. The State Executive Director is authorized to approve voluntary conveyance regardless of amount of indebtedness.

(Revised- 05-16-01, PN 332.)

(2) Loans to organizations.

(i) The State Director is authorized to approve voluntary conveyance of property securing Farmer Program and EOC loans regardless of amount of indebtedness.

(ii) The State Director is authorized to approve voluntary conveyance of property securing MFH loans if the total indebtedness against the property, including prior and junior liens, does not exceed his/her approval authority for the type loan involved. Loan approval authorities are outlined in Exhibits A through E of RD Instruction 1901-A (available in any FmHA Office).

(iii) Offers to convey property securing loans other than those outlined in paragraphs (a)(2)(i) and (ii) of this section will be submitted to the Administrator for approval prior to acceptance of the conveyance offer. Submissions will include the case file; OGC's opinion on settling any other liens involved; a statement of essential facts; and recommendations of the State Director and Program Chief. Submissions are to be addressed to the Administrator, ATTN: (appropriate program division.)

(b) Forms and documents. All forms and documents in connection with voluntary conveyance will be prepared and distributed in accordance with the respective FMI or applicable OGC instructions. For loans to individuals when the County Supervisor has approval authority, the facts will be documented in the running record of the borrower's case file. For all other loans, the servicing official will submit the voluntary conveyance offer, the case file and an narrative report to the appropriate approval official.

(c) Liens against the property other than FmHA liens.

(1) Prior liens.

(i) The approval official will determine whether or not prior liens will be paid. Normally, the Government will pay prior liens in full prior to acquisition if:

(A) A substantial recovery in the Government's investment plus the amount of the prior lien(s) can be obtained; and

(B) The holder of the prior lien(s) objects to the Government accepting voluntary conveyance subject to the prior lien(s), if consent of the prior lienholder(s) is required.

(ii) If property is acquired subject to prior lien(s), payment of installments on the lien(s) may be made while title to the property is held by the Government in accordance with §1955.67 of Subpart B of Part 1955 of this chapter.

(2) Junior liens. The borrower must satisfy junior liens on the property (except FmHA liens) and pay real estate taxes or assessments which are or will become a lien on the property. However, if the borrower is unable or unwilling to do so, settlement of the liens may be made by FmHA if settlement would be in the best interest of the Government, considering all factors such as length of time required to foreclose, vandalism or other deterioration of the property which might occur, and effect on management of a MFH project and its tenants. An FmHA official will contact junior lienholders, negotiate the most favorable settlement possible, and determine whether it is in the Government's best interest to settle the junior liens and accept the voluntary conveyance.

(i) For loans to individuals, the approval official is authorized to settle junior liens in the smallest amount possible, but not to exceed an aggregate amount of \$1,000 in each SFH case or \$5,000 for other type loans. For junior liens in greater amounts when the approval official is the County Supervisor or District Director, prior authorization must be obtained from the State Director.

(ii) For loans to organizations, the State Director will determine whether or not junior liens will be settled and voluntary conveyance accepted.

(3) Payment of liens. A lien to be settled in accordance with paragraphs (c)(1)(i) or (c)(2) of this section will be paid as outlined in §1955.5(d) of this subpart and charged to the borrower's account as a recoverable cost

(d) Offer of voluntary conveyance. An offer of voluntary conveyance will consist of the following:

§ 1955.10(d) (Con.)

- (1) Form RD 1955-1, "Offer to Convey Security."
- (2) Warranty Deed, or other deed approved by OGC to comply with State laws. The deed will not be recorded until it is determined the voluntary conveyance will be accepted. At the time of the offer, the borrowers will be informed that the conveyance will not be accepted until the property has been appraised and a lien search has been obtained. If the voluntary conveyance is not accepted, the deed and Form RD 1955-1, properly executed, will be returned to the borrower along with a memorandum stating the reason(s) for non-acceptance.
- (3) A current financial statement containing information similar to that required to complete Forms RD 410-1, "Application for RD Services" or RD 442-3, "Balance Sheet," and information on present income and potential earning ability. Exception for SFH loans: RD requires a budget and/or financial statement and, if necessary to discover suspected undisclosed assets, a search of public records, only when the value of the security property may be less than the debt. (Revised 02-13-92, SPECIAL PN.)
- (4) For organization borrowers, a duly-adopted Resolution by the governing body authorizing the conveyance and certified by the attesting official with the corporate seal affixed. The Resolution will indicate which officials are authorized to execute the offer to convey and the deed on behalf of the borrower. If shareholder approval is necessary, the Resolution will specifically recite that shareholder approval has been obtained.
- (5) If water rights, mineral rights, development rights, or other use rights are not fully covered in the deed, the advice of OGC will be obtained and appropriate documents to transfer rights to the Government will be obtained before the voluntary conveyance is accepted. The documents will be recorded, if necessary, in connection with closing the conveyance.
- (6) If property is under lease, an assignment of the lease to the Government will be obtained with the effective date being the date the voluntary conveyance is closed. If an oral lease is in force, it will be reduced to writing and assigned to the Government.
- (7) The borrower may be required to provide a title insurance policy or final title opinion from a designated attorney when

the State Director determines it is necessary to protect the Government's interest. Such title insurance policy or final title opinion will show title vested to the Government subject only to exceptions and liens approved by the County Supervisor.

(8) Farmer program loan borrowers who voluntarily convey after receiving the appropriate loan servicing notice(s) contained in the attachments of Exhibit A of Subpart S of Part 1951 of this chapter must properly complete the acknowledgement form sent with the notice.

(9) For MFH loans, assignment of Housing Assistance Payment (HAP) Contracts will be obtained. Rental Assistance will be retained until the State Director is advised by OGC that RD has title to the property, but may be suspended while the conveyance is pending according to Exhibit E of Subpart C of Part 1930 of this chapter.

(e) Appraisal of property. After an offer of voluntary conveyance, but before acceptance by RD, an appraisal of the property will be made to establish the current market value of the property. If a qualified RD appraiser is not available to appraise property securing a loan other than MFH, the State Director may obtain an appraisal from a qualified appraiser outside RD in accordance with RD Instruction 2024-A (available in any RD office). For property securing MFH, prior authorization must be obtained by the Assistant Administrator, Housing, to secure an appraisal from a source outside RD. For property securing FP loans, the contract appraiser must complete the appraisal in accordance with FSA Handbook 1-FLP for Farmer Program property, or Subpart C of Part 1922 of this chapter, for Single Family Housing property. Also, the appraiser must meet at least one of the following qualifications: (Revised 04-19-00, PN 319.)

(1) Certification by a National or State Appraisal Society.

(2) If a certified appraiser is not available, the appraiser may be one who meets the criteria certification in a National or State Appraisal Society.

(3) The appraiser has recent, relevant appraisal experience or training, or other factors clearly establishing the appraiser's qualifications.

(f) Processing offer to convey security and acceptance by RD. If a borrower has both SFH and other type loans, the portion of this paragraph dealing with the loan(s) other than SFH will be followed.

(1) *SFH loans.* FmHA does not solicit or encourage conveyance of SFH security property to the Government and will consider a borrower's offer to convey by deed in lieu of foreclosure only after the debt is accelerated and when it is in the Government's interest. Upon receipt of an offer to convey, the servicing official will remind the borrower of provisions for voluntary liquidation under ½1965.125(a) of Subpart C of Part 1965 of this chapter and the consequences of a conveyance by deed in lieu of foreclosure as follows: All costs related to the conveyance which FmHA pays will be added to the debt; a credit equal to the market value of the property, as determined by FmHA, less prior liens, will be applied to the debt; and if the credit does not satisfy the debt, the borrower will not automatically be released of liability. The unsatisfied debt, after acceleration under ½1955.10(h)(5) of this subpart, may be settled according to Subpart B of Part 1956 of this chapter; however, a deficiency judgment will not be pursued when the borrower was granted a moratorium if the borrower faithfully tried to meet loan obligations. The conveyance is processed as follows: (Revised 02-13-92, SPECIAL PN.)

(i) Before accepting the offer, the County Supervisor will transmit the deed to a closing agent requesting a title search covering the period of time since the latest title opinion in the case file. The same agent who closed the loan should be used, if possible; otherwise one will be selected from the

§1955.10 (f)(1)(i) (Con.)

approved list of closing agents, taking care that cases are distributed fairly among approved agents. The closing agent may be instructed that the County Supervisor considers the voluntary conveyance offer conditionally approved, and the closing agent may record the deed after the title search if there are no liens against the property other than:

(A) The Consolidated Farm Service Agency (CFSA) lien(s);

(B) Prior liens when CFSA has advised the closing agent that title will be taken subject to the prior lien(s) or has told the closing agent that the prior lien(s) will be handled in accordance with §1955.10 (c)(1) of this subpart; and/or

(C) Real estate taxes and/or assessments which must be paid when title to the property is transferred.

(ii) If junior liens are discovered, the closing agent will be requested to provide CFSA with the lienholder's name, amount of lien, date recorded, and the recording information (recording office, book and page), return the unrecorded deed to CFSA, and await further instruction from CSFA. In such cases, the County Supervisor will proceed in accordance with §1955.10 (c)(2) of this subpart. If agreement has been reached with the lienholder(s) for settling the junior lien(s) in order to accept the conveyance, the deed will be returned to the closing agent for a title update and recording.

(iii) The closing agent will be requested to provide a certification of title to CSFA after recordation of the deed. A certification of title is a statement that fee title is vested in the Government subject only to the CSFA lien(s) and prior liens previously approved by CSFA. After receipt of the certification of title, the County Supervisor will notify the borrower that the conveyance has been accepted in accordance with §1955.10 (g) of this subpart.

(2) Consolidated Farm and Rural Development Act (CONACT) loans to individuals. For CONACT loans to individuals, as defined in §1955.3 of this subpart, where the CSFA indebtedness plus any

prior liens exceeds the market value of the property, the County Committee must take certain action if it is to recommend that the borrower and any cosigner be released from liability. (Revised 12-30-93, SPECIAL PN.)

(i) Release from liability. The County Committee must determine that the borrower(s) and any cosigner do not have reasonable ability to pay all or a substantial part of the balance of the debt owed after the voluntary conveyance, taking into consideration their assets and income at the time of the conveyance; and that the borrower and any cosigner have cooperated in good faith, used due diligence to maintain the security against loss, and have otherwise fulfilled the covenants incident to the loan to the best of their ability; and they must recommend that the borrower and any cosigner be released from personal liability for any balance due on the secured indebtedness upon conveyance of the property to the Government. This action will be documented by checking the appropriate block on Form FmHA 440-2, "County Committee Certification or Recommendation," as specified in the Forms Manual Insert (FMI).

(ii) Unsatisfied indebtedness. If the County Committee does not recommend release from liability, the borrower must be informed that the indebtedness cannot be satisfied but a credit can be given equal to the market value less prior lien(s) (if any) and the borrower will determine if the borrower wishes to make a new offer on that basis. If a new offer is made and accepted, the account will be handled as an unsatisfied account as outlined in

§1955.18 (f) of this subpart. When the Agency debt less the market value and prior liens is \$1 million or more (including principal, interest and other charges), release of liability must be approved by the Administrator or designee; otherwise, the State Director must approve the release of liability. All cases requiring a release of liability will be submitted for review in accordance with exhibit A of subpart B of part 1956 of this chapter (available in any CFSA office). (Revised 05-31-95, PN 246.)

(iii) Crediting accounts. CFSA will credit the account of a Native American borrower-owner whose real property secured an FP loan with the fair market value or the CFSA

debt against the property, whichever is greater. To receive such credit, the real property must be located within the boundaries of a federally recognized Indian reservation and the County Committee must certify that:

(A) The borrower-owner is a member of an Indian tribe or the tribe.

(B) The property is located within the confines of a federally recognized Indian reservation.

(iv) Loans which are within the County Supervisor's approval authority. The same procedure outlined in paragraph (f)(1)(i) through (f)(1)(iii) of this section will be followed. The conveyance will be accepted in full satisfaction of the indebtedness unless:

(A) The market value of the property to be conveyed is less than the total of FmHA indebtedness and prior lien(s), if any, and the County Committee has not recommended the borrower be released from liability; or

(B) The borrower has made a new offer agreeing to accept a credit in the amount of the market value of the security property less prior lien(s), if any, in which case the conveyance will be accepted for the market value of the property conveyed to FmHA less prior lien(s), if any.

(v) Loans which are NOT within the County Supervisor's approval authority.

(A) When an offer to convey is received from the borrower, the County Supervisor will request a closing agent, selected in accordance with paragraph (f)(1)(i) of this section, to make a title search covering the period of time since the latest title opinion in the case file. The case file containing the following will be forwarded to the appropriate approval official:

(1) Form RD 1955-2, "Report on Real Estate Problem Case;"

(2) Report of title search;

(3) Borrower's offer of voluntary conveyance (consisting of applicable items outlined in paragraphs (d)(1) through (d)(8) of this section);

(4) Current appraisal of property;

(5) Unpaid balance on FmHA indebtedness and other liens, both prior and junior, if any; and

(6) Form RD 440-2 executed in accordance with the FMI concerning release from liability if property value is less than the debt plus prior liens, if any.

(B) If the approval official determines the conveyance should be accepted, the file will be returned to the County Supervisor with a memorandum of conditional approval. The same conditions for release of liability apply as in paragraph (f)(2)(i) of this section. If the approval official does not concur in acceptance of the conveyance, the file will be returned with a memorandum stating the reasons for rejecting the offer and giving instructions to the County Supervisor for further servicing of the account.

(C) After the approval official has conditionally approved the conveyance, the County Supervisor will forward the deed to a closing agent with instructions to record it provided no liens have been recorded since the recent title search. The closing agent will be requested to provide a certification of title to FmHA after recordation of the deed. After receipt of the certification of title, the County Supervisor will notify the borrower that the conveyance has been accepted in accordance with paragraph (h) of this section.

(3) Loans to organizations. When an offer of voluntary conveyance is received from an organization borrower, the servicing official will submit the offer and the case file containing the items outlined in paragraphs (f)(3)(ii) or (f)(3)(iii) of this section, as applicable, to the State Director. The State Director will obtain the advice of OGC on all offers of voluntary conveyance for organization borrowers. OGC will be requested to issue instructions for processing and closing the conveyance. When the market value of the property being conveyed (less prior liens, if any) is less than the FmHA debt, full consideration must be given to the borrower's present situation and future prospects for paying all or a part of the FmHA debt. In such case, the County Committee must make a favorable recommendation if the borrower is to be released from liability; and if the FmHA debt less the market value and prior liens exceeds \$25,000, release of liability must be approved by the Administrator.

(i) Items to be included in the borrower's case file for MFH loans:

- (A) Report on Multiple-Family Housing Problem Case, (Exhibit A to this subpart available in any FmHA Office);
- (B) Liquidation and management plan with specific recommendations of the District Director;
- (C) Form RD 1955-1;
- (D) Resolution authorizing the conveyance, if applicable;
- (E) Report of title search from an approved closing agent covering the period of time since the latest title opinion is in the case file;
- (F) Form RD 1930-7, "Statement of Budget and Cash Flow." (operating budget for first year and typical year);
- (G) Form RD 1930-8, "Year End Report and Analysis for Fiscal Year Ending _____. " (Balance Sheet Portion);
- (H) Current appraisal prepared by a MFH designated appraiser;
- (I) Balance on FmHA account(s) and other liens, if any;

- (J) Assignment of Housing Assistant Payment (HAP) contracts, if applicable, along with evidence of contract with HUD;
 - (K) Current statement of account from the Finance Office;
 - (L) Development plan with breakdown of costs, if applicable; and
 - (M) Form RD 440-2, executed in accordance with the FMI, when applicable. (Revised 12-30-93, SPECIAL PN.)
- (ii) Items to be included in the borrower's case file for loans other than MFH:
- (A) Report on Servicing Action (Exhibit A to Subpart E of Part 1951 of this Chapter, available in any FmHA office);
 - (B) Liquidation and management plan;
 - (C) Form RD 1955-1;
 - (D) Organization's Resolution authorizing the conveyance;
 - (E) Report of title search from an approved closing agent covering the period of time since the latest title opinion in the case file;
 - (F) Form RD 442-3; (Revised 12-30-93, SPECIAL PN.)
 - (G) Current appraisal;
 - (H) Statement showing income and expenses due but unpaid;
 - (I) Balance on FmHA account(s) and other liens, if any; and
 - (J) Form RD 440-2, executed in accordance with the FMI concerning release from liability if property value is less than the FmHA indebtedness plus prior liens, if any.

(g) Closing of conveyance.

(1) The conveyance to the Government will be considered closed when the recorded deed has been returned to FmHA, a certification of title is received from the closing agent that title is vested in the Government with no outstanding encumbrances other than the FmHA lien(s) or previously approved prior liens, and the borrower is notified of the acceptance of the conveyance. For loans to organizations, OGC will be requested to review the case to verify that it was closed properly. The property will be assigned an ID number and entered into the Acquired Property Tracking System through the Automated Discrepancy Processing System (ADPS) terminal in the County Office. (Revised 12-30-93, SPECIAL PN.)

(2) When costs incident to the completion of the transaction are to be paid by the Government, the servicing official will prepare and process the necessary documents as outlined in §1955.5 (d) of this subpart and the costs will be charged to the borrower's account as recoverable costs. This includes taxes and assessments, water charges which protect the right to received water, other liens, closing agent's fee, and any other costs related to the conveyance.

(h) Actions to be taken after closing conveyance.

(1) When the FmHA account is satisfied, the note(s) will be stamped "Satisfied by Surrender of Security and Borrower Released from Liability," and the statement must be signed by the servicing official.

(2) When the FmHA account is not satisfied and the borrower is not released from liability, the note(s) will be retained by FmHA.

(3) The servicing official will release the lien(s) of record, indicating that the debt was satisfied by surrender of security or that the lien is released but the debt not satisfied, whichever is applicable. If the lien is to be released but the debt not satisfied, OGC will provide the type of instrument required to comply with applicable State laws.

(4) After release of the lien(s), the servicing official will return the following to the borrower:

§1955.10 (h)(4) (Con.)

(i) If borrower is released from liability, the satisfied note(s) and a copy of Form RD 1955-1 showing acceptance by the Government; or

(ii) If borrower is not released from liability, a copy of Form RD 1955-1 showing acceptance by the Government.

(5) When the FmHA account is not satisfied and the borrower not released from liability, the account balance, after deducting the "as-is" market value and prior liens, if any, will be accelerated utilizing Exhibit F of this subpart (available in any FmHA office).

(6) For MFH loans, the State Director will cancel any interest credit and suspend any rental assistance. These actions will be

(10-14-88) SPECIAL PN

accomplished by notifying the Finance Office unit which handles MFH accounts. In the interim, the tenants will continue rental payments in accordance with their lease. Tenants will be informed of the pending liquidation action and the possible consequences of the action. FmHA Guide Letters 1965-E-2, 1965-E-3, and 1965-E-5 (available in any FmHA office) may be used to inform tenants, but should be modified to reflect the specific action and circumstances. If the project is to be removed from the FmHA program, a minimum of 180 days' notice to the tenants is required. Letters of Priority Entitlement must be made available to any tenants that will be displaced as required by §1965.215(e)(4) of Subpart E of Part 1965 of this chapter. (Revised 08-20-93, SPECIAL PN.)

(7) Actions outlined in §1955.18 of this subpart will be taken, as applicable

§1955.11 Conveyance of property to FmHA by trustee in bankruptcy.

(a) Authority. With the advice of OGC (and prior approval of the National Office for MFH, Community Programs, and insured B&I loans), the State Director within his/her authority is authorized to accept a conveyance of property to the Government by the Trustee in Bankruptcy, provided:

- (1) The Bankruptcy Court has approved the conveyance;
- (2) The conveyance will permit a substantial recovery on the FmHA debt; and
- (3) FmHA will acquire title free of all liens and encumbrances except FmHA liens.

(b) Fees and deed.

(1) FmHA may pay any necessary and proper fees approved by the bankruptcy court in connection with the conveyance. Before paying a fee to a trustee for a Trustee's Deed in excess of \$300 for any loan type(s) other than Farmer programs or \$1,000 for Farmer Programs loans, prior approval of the Administrator must be obtained. The State Director will process the necessary documents as outlined in §1955.5(d) of this subpart for payment of fees as recoverable costs.

(2) Conveyance may be by Trustee's Deed instead of a warranty deed. If upon advice of OGC it is determined a deed from any other person or entity (including the borrower) is necessary to obtain clear title, a deed from such person or entity will be obtained.

(c) Acceptance. The conveyance will be accepted for an amount of credit to the borrower's FmHA account(s) as set forth in §1955.18(e)(4) of this subpart.

(d) Reporting. Acquisition of property under this section will be reported in accordance with §1955.18(a) of this subpart.

§1955.12 Acquisition of property which served as security for a loan guaranteed by FmHA or at sale by another lienholder, bankruptcy trustee, or taxing authority.

When the servicing regulations for the type of loan(s) involved permit FmHA to acquire property by one of these methods, the acquisition will be reported in accordance with §1955.18(a) of this subpart.

§1955.13 Acquisition of property by exercise of Government redemption rights.

When the Government did not protect its interest in security property in a foreclosure by another lienholder, and if the Government has redemption rights, the State Director will determine whether to redeem the property. This determination will be based on all pertinent factors including the value of the property after the sale, and costs which may be incurred in acquiring and reselling the property. For Farmer Program loans, the County Supervisor will document the determination on Exhibit G of this subpart. The decision must be made far enough in advance of expiration of the redemption period to permit exercise of the Government's rights. If the property is to be redeemed, complete information documenting the basis for not acquiring the property at the sale and factors which justify redemption of the property will be included in the case file. The assistance of OGC will be obtained in effecting the redemption. If the State Director decides not to redeem the property, the Government's right of redemption under Federal law (28 USC §2410) may be waived without consideration. If a State law right of redemption exists and may be sold, it will not be disposed of for less than its value.

§1955.14 Release of a junior lien on HUD/FmHA joint security.
(Added 11-24-93, PN 215.)

Exhibit J of this subpart provides administrative instructions to obtain or grant a release of a junior lien held by one agency when the other forecloses a prior lien or accepts a deed in lieu of foreclosure on SFH security property.

§1955.15 Foreclosure by the Government of loans secured by real estate.

Foreclosure will be initiated when all reasonable efforts have failed to have the borrower voluntarily liquidate the loan through sale of the property, voluntary conveyance, or by entering into an accelerated repayment agreement when applicable servicing regulations permit; when either a net recovery can be made or when failure to foreclose would adversely affect FmHA programs in the area. Also, in Farmer Program cases, (except graduation cases under Subpart F of Part 1951 of this Chapter), the borrower must have received Exhibit A with Attachments 1 and 2 of Subpart S of Part 1951 of this chapter, and any appeal must have been concluded. For real property located within the confines of a federally recognized Indian reservation and owned by a Native American borrower, proper notice of voluntary conveyance must be given as outlined in §1955.9 (c)(1) of this subpart. (Revised 12-30-93, SPECIAL PN.)

(a) Authority.

(1) Loans to individuals. The District Director is authorized to approve or disapprove foreclosure and accelerate the account.

§ 1955.15(a) (Con.)

(2) Loans to organizations.

(i) The State Director or District Director is authorized to approve or disapprove foreclosure of MFH loans when the amount of the Rural Development secured debt does not exceed their respective loan approval authority. The State Director is authorized to approve or disapprove foreclosure of I&D, Shift-In-Land-Use (Grazing Association), loans to Indian Tribes and Tribal Corporations, and EOC loans, regardless of the amount of debt.

(ii) For all other organization loans, foreclosure will not be initiated without prior approval of the Administrator. The State Director will obtain OGC's opinion on the steps necessary to foreclose the loan, and forward the appropriate problem case report, a statement of essential facts, his/her recommendation, a copy of the OGC opinion, and the borrower's case file to the Administrator, Attn: Assistant Administrator (appropriate loan division) with a request for authorization to initiate foreclosure.

(b) Problem case report. When foreclosure is recommended, the servicing official will prepare Form RD 1955-2 for Farmer Program or SFH loans, Exhibit A to this subpart for MFH loans, or Exhibit A of RD Instruction 1951-E for other organization loans. IF chattel security is also involved, Forms RD 455-1, "Request for Legal Action;" 455-2, "Evidence of Conversion;" and 455-22, "Information for Litigation;" as applicable to the case, will be prepared in accordance with the respective FMIs and made a part of the problem case submission. A statement must be included by the servicing official in the narrative that all servicing actions required by Rural Development loan servicing regulations have been taken and all required notices given to the borrower.

(1) Appraisal. The market value of the property may be estimated in completing the problem case report unless there are one of more prior liens other than current-year real estate taxes. Where such prior liens are involved, an appraisal report reflecting market value in existing condition will be included in the case file as a basis for determining the Government's prospects for financial recovery through foreclosure.

(2) Recommendation for deficiency judgment. If the debt will not be satisfied by the foreclosure, the borrower's financial situation will be assessed to determine if there is a possibility of further recovery on the account through a deficiency judgment. A summary of these determinations will be fully documented and appropriate

recommendations made concerning deficiency judgment in the applicable problem case report. For SFH loans subject to recapture of subsidy, the debt includes total interest credit granted and principal reduction attributed to subsidy in addition to unpaid principal and interest. However, a deficiency judgment will not be recommended in a SFH case to recapture subsidy or where the borrower was granted a moratorium provided the borrower faithfully tried to meet loan obligation. In crediting security value against indebtedness, credit will be given first to interest, principal and recoverable costs and then to recapture of subsidy.

(3) Historic preservation. If it is likely that Rural Development will acquire title to the property as a result of the foreclosure, and the structure(s) on the property will be in excess of 50 years old at the time of acquisition or meet any of the other criteria contained in § 1955.137(c) of Subpart C of Part 1955 of this chapter, steps should be initiated to meet the requirements of the National Historic Preservation Act as outlined in § 1955.137 (c). Formal steps should not be initiated until the conclusion of all appeals, however, any such documentation required may be completed when the problem case report is prepared. This action should eliminate delays in selling the property after acquisition.

(Revised 08-20-97, PN 280.)

(c) Submission of problem case. The servicing official will submit the completed problem case docket to the official authorized to approve the foreclosure (approval official). Before approval of foreclosure and acceleration of the account, the approval official is responsible for review of the problem case report to see that all items are complete and that all required servicing actions have been taken and all required notices given the borrower. The narrative portion of the report should provide complete information on the borrower's financial condition, deficiency judgment in case the debt is not satisfied by the foreclosure, and other pertinent background items. The approval official will approve or disapprove the foreclosure, or make a recommendation and refer the case to the National Office, if not within his/her approval authority. If foreclosure is not approved, the case will be returned to the originating office with instructions for further servicing. Problem case submission is as follows:

(1) For loans to individuals. The County Supervisor will submit the case to the District Director.

§ 1955.15(c) (Con.)

(2) For loans to organizations. The District Director will submit the case to the State Director along with a proposed liquidation and management plan covering the time the foreclosure is in process. The State Director will obtain the advice of OGC if required in connection with the type of loan being liquidated.

(d) Approval of foreclosure. When foreclosure is approved, it will be handled as follows:

§1955.15 (d) (Con.)

(1) Prior lien(s). If there is a prior lien, all foreclosure alternatives should be explored including whether RBCDS, RHCDS, RUS, and CFSA will give the prior lienholder the opportunity to foreclose; join in the action if the prior lienholder wishes to foreclose; or foreclose RBCDS, RHCDS, RUS, and CFSA loan(s), either settling the prior lien or foreclosing subject to it. The provisions of §1965.11(c) of subpart A of part 1965 of this chapter must be followed for loans serviced under Subpart A of Part 1965. The assistance of OGC should be obtained in weighing the alternatives, with the objective being to pursue the course which will result in the greatest net recovery by the Government. After it is decided which option will be most advantageous to the Government, the approval official, either directly or through a designee, will contact the prior lienholder to outline RBCDS, RHCDS, RUS, and CFSA position. If State laws affect this action, a State Supplement will be issued with the advice of OGC to establish the procedure to be followed. For real property located within the confines of a federally recognized Indian reservation owned by a Native American borrower-owner, an analysis of whether RBCDS, RHCDS, RUS, and CFSA should acquire title must include facts which demonstrate the fair market value after considering the cost of clean-up of hazardous substances on the property.
(Revised 12-30-93, SPECIAL PN.)

(2) Acceleration of account. Subject to paragraphs (d)(2)(i), (d)(2)(ii), and (d)(2)(iii) of this section, the account will be accelerated using a notice substantially similar to Exhibits B, C, D, or E-1 of this subpart, or for multi-family housing, FmHA Guide Letters 1955-A-1 or 1955-A-2, as appropriate, to be signed by the official who approved the foreclosure. The accounts of borrowers with pending Chapter 12 and 13 cases which have not been discharged will be accelerated only in accordance with instructions from OGC. Upon OGC approval, the accounts of these borrowers may be accelerated using a notice substantially similar to Exhibit D of this subpart. Loans secured by chattels must be accelerated at the same time as loans secured by real estate in accordance with §1965.26(c) of subpart A of part 1965 of this chapter. The notice will be sent by certified mail, return receipt requested, to each obligor individually, addressed to the last known address. If different from the property address and/or the address the Finance Office uses, a copy of the notice will also be mailed to the property address and the address currently used by the Finance Office. (In chattel liquidation cases which have been referred for civil action under Subpart A of Part 1962 of this chapter, the Finance Office will be sent a copy of Exhibit D, E, or E-1 as applicable. County office and Finance Office loan records will be

adjusted to mature the entire debt in such cases.) If a signed receipt for at least one of these acceleration notices sent by certified mail is received, no further notice is required. If no receipt is received, a copy of the acceleration notice will be sent by regular mail to each address to which the certified notices were sent. This type mailing will be documented in the file. A State Supplement may be issued if OGC advises different or additional language or format is required to comply with State laws or if notice and mailing instructions are different from that outlined in this paragraph. A conformed copy of the acceleration notice will be forwarded to the servicing official, and except for FP cases, to the hearing officer identified in the notice according to Subpart B of Part 1900 of this chapter. Farm Credit Programs appeals will be concluded before acceleration. For MFH loans, a copy of the acceleration letter will also be forwarded to the National Office, ATTN: MFH Servicing and Property Management Division, for monitoring purposes. Accounts may be accelerated as follows: (Revised 08-20-93, SPECIAL PN.)

(i) Where monetary default is involved, the account may be accelerated immediately after approval of foreclosure.

(ii) Where monetary default is not involved, the account will not be accelerated until the concurrence of OGC is obtained.

(iii) If borrower obtained the loan while a civilian, entered military service after the loan was closed, and RHCDS and CFSA have not obtained a waiver of rights under the Soldiers and Sailors Relief Act, the account will not be accelerated until OGC has reviewed the case and given instructions.

(iv) If the decision is made to liquidate the farm loan(s) of a borrower who also has a SFH loan(s), and the dwelling was used as security for the farm loan(s) it will not be necessary to meet the requirements of subpart G of part 1951 of this chapter prior to accelerating the account. Except that, if the borrower is in default on his/her farm loan(s), the SFH account must have been considered for interest credit and/or moratorium at the time servicing options are being considered for the FP loan(s) prior to acceleration. If it is later determined the FP loan(s) are to receive additional servicing in lieu of liquidation, the RH loan will be reinstated simultaneously with the FP servicing actions and may be reamortized in accordance with §1951.315 of subpart G of part 1951 of this chapter. Accounts of a borrower who has both FP and SFH loan(s) may be accelerated as follows: (Revised 10-27-95, SPECIAL PN.)

(A) When the borrower's dwelling financed with an SFH loan(s) is secured by and located on the same farm real estate as the Farmer Program loan(s) (dwelling located on the farm), the SFH loans(s) will be serviced in accordance with §1965.26 (c)(1) of Subpart A of Part 1965 of this chapter. (Revised 04-17-91, SPECIAL PN.)

(B) When the borrower's dwelling is financed with a SFH loan(s) and is located on a non-farm tract which also serves as additional security for the Farmer Program loan(s), the loans will be serviced in accordance with §1965.26 (c)(2) of Subpart A of Part 1965 of this chapter. (Revised 04-17-91, SPECIAL PN.)

(C) When the borrower's dwelling is financed with a SFH loan(s) and is on a non-farm tract which does not serve as additional security for the Farmer Program loan(s), it will NOT be accelerated simultaneously with sending out Attachments 5 and 6, or 5-A and 6-A, or Attachment 9 and 10, or 9-A and 10-A, of Exhibit A of Subpart S of Part 1951 of this chapter, as applicable, unless it is subject to liquidation based on provisions of §1965.125 of Subpart C of Part 1965 of this chapter, taking into consideration the prospects for success that may evolve when the borrower's livelihood is from a source other than the farming operation. If the SFH loan is in default and subject to liquidation based on provisions of §1965.125 of Subpart C of Part 1951 of this chapter, the SFH loan(s) must be accelerated at the same time the borrower is sent Attachment 5 and 6, or 5-A and 6-A, or Attachments 9 and 10, or 9-A and 10-A, to Exhibit A of Subpart S of Part 1951 of this chapter, as applicable. For those borrowers who are in non-monetary default on their Farmer Programs loans and fail to return Attachment 4 of Exhibit A, the Farmer Programs loans and SFH loans will be accelerated at the same time. If the borrower appeals, one appeal hearing and one review will be held for both adverse actions. (Revised 04-30-92, SPECIAL PN.)

(D) If a borrower's FP loan(s) were accelerated prior to May 7, 1987, and the SFH loan(s) is not accelerated, the SFH loan will be accelerated at the same time the borrower is sent Attachments 5 and 6, or

5-A and 6-A, or Attachments 7 and 8 to Exhibit A of Subpart S of 1951 of this chapter, as applicable, unless the requirements of §1965.26 of Subpart A of Part 1965 of this chapter are met or the liquidation of the SFH loan is based on provisions of §1965.125 of Subpart C of Part 1965 of this chapter. If the borrower is sent Attachments 5 and 6, or 5-A and 6-A, as applicable, and requests an appeal, one hearing and one review will be held for both the adverse action on the FP loan restructuring request and SFH acceleration notices. If the borrower is sent Attachments 7 and 8, there are no further appeals on the FP loans; but, the borrower is entitled to a hearing and a review on the SFH acceleration notice. (Revised 04-30-92, SPECIAL PN.)

(v) For MFH loans, the acceleration notice will advise the borrower of all applicable prepayment requirements, in accordance with Subpart E of Part 1965 of this chapter. The requirements include the application of restrictive-use provisions to loans made on or after December 21, 1979, prepaid in response to acceleration notices and all tenant and agency notifications. Any FmHA loan made before December 21, 1979, prepaid in response to the issuance of an acceleration notice, will also be required to have the appropriate restrictive-use language inserted on the instrument recorded in the real estate records, as appropriate upon the advice of OGC, only if the payment occurs within 1 year after the borrower had submitted a request to prepay the loan(s). The acceleration notice will also remind borrowers that rent levels cannot be raised during the acceleration without FmHA approval, even after subsidies are cancelled or suspended. Tenants are to be notified of the status of the project and of possible consequences of these actions. Form RD Letters 1965-E-2, 1965-E-3 and 1965-E-5 may be used as guides, but modified appropriately. If the borrower wishes to prepay the project in response to the acceleration and FmHA makes a determination that the housing is no longer needed, a minimum of 180 days' notice to tenants is required before the project can be removed from the FmHA program. Letters of Priority Entitlement must be made available in accordance with §1965.215 (e)(4) of Subpart E of Part 1965 of this chapter. (Added 08-20-93, SPECIAL PN.)

(3) Offers by borrowers after acceleration of account.

(i) Farmer Programs (FP) accelerations. This category also includes non-FP loans to the same borrower which have been accelerated as part of the same action. After the account is accelerated, the borrower will have 30 days from the date of the acceleration notice to make payment in full to stop the acceleration, unless State or tribal law requires that the foreclosure be withdrawn if the account is brought current and a State supplement is issued to specify this requirement.

(Revised 12-30-93, SPECIAL PN.)

(A) Payment in full [see Exhibit D of this subpart (available in any FmHA office)] may consist of the following means of fully satisfying the debt.

- (1) Cash.
- (2) Transfer and assumption.
- (3) Sale of property.
- (4) Voluntary conveyance.

(B) Payments which do not bring the account current can be accepted subject to the following requirements:

- (1) Payments will be accepted if there is no remaining security for the debt (real estate and chattel).
- (2) If the borrower is in the process of selling security or nonsecurity, payments may be accepted unless State law would require the acceleration to be reversed. In States where payments cannot be accepted unless the acceleration is reversed, the payments will not be accepted. A State supplement will be issued to address State law on accepting payments after acceleration.
- (3) If payments are mistakenly credited to the borrower's account, no waiver or prejudice to any rights which the United States may have for breach of any promissory note or covenant in the real estate instruments will result. Disposition of such payments will be made after consulting OGC.

(10-14-88) SPECIAL PN

(4) The servicing official will notify the approval official on any other offer. This includes a request by the borrower for an extension of time to accomplish voluntary liquidation or a proposal to cure the default(s). In all other cases, the approval official will decide whether an offer from a borrower will be accepted and servicing of the loan reinstated or whether foreclosure will be delayed to give the borrower additional time to voluntarily liquidate as authorized in servicing regulations for the type loan(s) involved. If an offer is received after the case has been referred to OGC, the approval official will consult OGC before accepting or rejecting the offer. The denial of an offer to stop foreclosure is not appealable. In all cases, the approval official will notify the servicing official of the decision made.

(ii) All other accelerations. After the account is accelerated, loan servicing ceases. For example, for SFH loans, the renewal or granting of interest credit or moratorium is not authorized. The servicing official will accept no payment for less than the unpaid loan balance, unless State law requires that foreclosure be withdrawn if the account is brought current and a State supplement is issued to specify this requirement. If payments are mistakenly accepted and credited to the borrower's account, no waiver or prejudice to any rights which the United States may have for breach of any promissory note or covenants in the real estate instruments will result. Disposition of such payments will be made after consultation with OGC. The servicing official will notify the approval official of any offer received from the borrower. This includes a request by the borrower for an extension of time to accomplish voluntary liquidation or written proposal to cure the default(s). The receipt of payment with no proposal to cure the defaults is not considered a viable offer, and such payments will be returned to the borrower. The approval official will decide whether an offer from a borrower will be accepted and servicing on the loan reinstated or whether foreclosure will be delayed to give the borrower additional time to voluntarily liquidate as authorized in servicing regulations for the type of loan involved. If an offer is

received after the case has been referred to OGC, the approval official will consult OGC before accepting or rejecting the offer. The denial of an offer to stop foreclosure is not appealable. In all cases, the approval official will notify the servicing official of the decision made. For MFH loans, the National Office will be notified when foreclosure is

(10-14-88) SPECIAL PN

withdrawn. When an account is reinstated under this section, the servicing official will grant or reinstate assistance for which the borrower qualifies, such as interest credit on an SFH loan. When granting interest credit is such a case:

(A) If an interest credit agreement expired after the account was accelerated, the effective date will have the date the previous agreement expired.

(B) If an interest credit agreement was not in effect when the account was accelerated, the effective date will be the date foreclosure action was withdrawn.

(C) For MFH loans with rental assistance, after acceleration and after any appeal or review has been concluded, rental assistance will be suspended if foreclosure is to continue. If the account is reinstated, the rental assistance will be reinstated retroactively to the date of suspension. In the interim, the tenants will continue rental payments in accordance with their leases, and all rental rates and lease renewals and provisions will be continued as if acceleration had not taken place. (Revised 08-20-93, SPECIAL PN.)

(4) Statement of account. If a statement of account is required for foreclosure proceedings, Form RD 451-10, "Request for Statement of Account," will be processed in accordance with the FMI. When an official statement of account is not required, account balances and recapture information may be obtained from the field office terminal.

(5) Appeals. All appeals will be handled pursuant to Subpart B of Part 1900 of this chapter. Foreclosure actions will be held in abeyance while an appeal is pending. No case will be referred to OGC for processing of foreclosure until a borrower's appeal and appeal review have been concluded, or until the time has elapsed during which an appeal or a request for review may be made. In Farmer Programs cases, (except graduation cases under Subpart F of Part 1951 of this chapter), the borrower must have received the appropriate notices and consideration for primary loan servicing per Subpart S of Part 1951 of this chapter. Any Farmer Programs cases involving appeals may be accelerated after all primary loan servicing options have been considered and all related appeals concluded, but will not be submitted to OGC for foreclosure action until all appeals related to any preservation rights have been concluded.

(Revised 11-03-93, SPECIAL PN.)

(6) Petition in bankruptcy filed by borrower after acceleration of account.

(i) When bankruptcy is filed after an account has been accelerated, any foreclosure action initiated by FmHA must be suspended until: (Revised 12-16-92, PN 196.)

(A) The bankruptcy case is dismissed or closed (a discharge of debtor does not close the case);

(B) An Order lifting the automatic stay is obtained from the Bankruptcy Court; or

(C) The property is no longer property of the bankruptcy estate and the borrower has received a discharge.

(ii) The State Director will request the assistance of OGC in obtaining the Order(s) described in paragraph (d)(6)(i)(B) of this section.

(e) Referral of case. If the borrower fails to satisfy the account during the period of time specified in the acceleration notice, and no appeal is pending, the foreclosure process will continue:

(1) If the District Director is the approval official, he/she will forward the case file with all pertinent documents and information concerning the foreclosure action and appeal, if any, to the State Director for completion of the foreclosure.

(2) If the State Director is the approval official, or in cases referred by the District Director under paragraph (e)(1) of this section, the State Director will forward to OGC the case file and all documents needed by OGC to process the foreclosure. A State Supplement will be issued, with the advice and assistance of OGC, to reflect the make-up of the foreclosure docket. Since foreclosure processing varies widely from State to State, each State Supplement will be explicit in outlining step-by-step procedures. At the time indicated by OGC in the foreclosure instructions, Form RD 1951-6, "Borrower Account Description Flag," will be processed in accordance with the FMI. After referral to OGC, further actions will be in accordance with OGC's instructions for completion of the foreclosure. If prior approval of the Administrator is obtained, nonjudicial foreclosures for monetary default may be handled as outlined in a State Supplement approved by OGC without referral to OGC before foreclosure.

(f) Completion of foreclosure.

(1) Foreclosure advertisement for organization loans subject to Title VI of the Civil Rights Act of 1964. (Revised 12-30-93, SPECIAL PN.)

(i) The advertisement for foreclosure sale of property subject to Title VI of the Civil Rights Act of 1964 will contain a statement substantially similar to the following: "The property described herein was purchased or improved with Federal financial assistance and is subject to the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 and other similarly worded Federal statutes and regulations issued pursuant thereto that prohibit discrimination on the basis of race, color, national origin, handicap, religion, age or sex in programs or activities receiving Federal financial assistance, for as long as the property continues to be used for the same or similar purposes for which the Federal assistance was extended or for so long as the purchaser owns it, whichever is later." At least 30 days before the foreclosure sale, the County Supervisor will notify, in writing, the Indian tribe which has jurisdiction over the reservation and in which the real property is owned by a Native American member of said tribe that a foreclosure sale will be conducted to resolve this account, and will provide:

- (A) Projected sale date and location;
- (B) Fair market value of property;
- (C) Amount FmHA will bid on the property; and
- (D) Amount of FmHA debt against the property.

(ii) The purchaser will be required to sign Form FmHA 400-4, "Assurance Agreement," if the property will be used for its original or similar purposes.

(2) Restrictive-use provisions for MFH loans. For MFH loans, the advertisement will state the restrictive-use provisions which will be included in any deed used to transfer title. (Added 08-20-93, SPECIAL PN.)

(3) Expenses. Expenses which are incurred in connection with foreclosure, including legal fees, will be paid at the time recommended by OGC by processing the necessary documents as

(10-14-88) SPECIAL PN

outlined in §1955.5 (d) of this subpart. Costs will be charged as outlined in RD Instruction 2024-A (available in any FmHA office). (Revised 12-30-93, SPECIAL PN.)

(4) Notice of judgment. In States with judicial foreclosure, as soon as the foreclosure judgment is obtained, Form FmHA 1962-20, "Notice of Judgment," will be processed in accordance with the FMI. This will establish a judgment account to accrue interest at the rate stated in the judgment order so that an accurate account balance can be obtained for calculating the Government's foreclosure bid. (Renumbered 08-20-93, SPECIAL PN.)

(5) Gross investment. The gross investment is the sum of the following: (Renumbered 08-20-93, SPECIAL PN.)

(i) The unpaid balance of one of the following, as applicable:

(A) In States with nonjudicial foreclosure, the borrower's FmHA account balance reflecting secured loan(s) and advances; and where State law permits, unsecured debts; or

(B) In States with judicial foreclosure, the judgment account established as a result of the foreclosure judgment in favor of FmHA.

(ii) All recoverable costs charged (or to be charged) to the borrower's account in connection with the foreclosure action and other costs which OGC advises must be paid from proceeds of the sale before paying the FmHA secured debt, including but not limited to payment of real estate taxes and assessments, prior liens, legal fees including U.S. Attorney's and U.S. Marshal's, and management fees; and

(iii) If a SFH loan subject to recapture of interest credit is involved, the total amount of subsidy granted and principal reduction attributed to subsidy.

(6) Amount of Government's bid. Except for FP loans and as modified by paragraph (f)(6)(ii) of this section, the Government's bid will be the amount of FmHA's gross investment or the market value of the security, whichever is less. For

(Revision 3)

real property located within the confines of a federally recognized Indian reservation and which is owned by an FmHA borrower who is a member of the tribe with jurisdiction over the reservation, the Government's bid will be the greater of the fair market value or the FmHA debt against the property, unless FmHA determines that, because of the presence of hazardous substances on the property, it is not in the best interest of the Government to bid such amount, in which case there may be a deduction from the bid for the costs for hazardous material assessment and/or mitigation. For FP loans, except as modified by paragraph (f)(6)(ii) of this section, the Government's bid will be the amount of FmHA's gross investment or the amount determined by use of Exhibit G-1 of this subpart, whichever is less. When the foreclosure sale is imminent, the State Director must request the servicing official to submit a current appraisal (in existing condition) as a basis for determining the Government's bid. Except for MFH properties, if an FmHA appraiser is not available, the State Director may authorize an appraisal to be obtained by contract from a source outside FmHA in accordance with RD Instruction 2024-A (available in any FmHA office). For MFH properties, prior approval of the Assistant Administrator, Housing, is necessary to procure an outside appraisal. (Revised 12-30-93, SPECIAL PN.)

(7) Bidding. The State Director will designate an individual to bid on behalf of the Government unless judicial proceedings or State nonjudicial foreclosure law provide for someone other than an FmHA employee to enter the Government's bid. When the State Director determines attendance of an FmHA employee at the sale might pose physical danger, a written bid may be submitted to the Marshal, Sheriff, or other party in charge of holding the sale. The Government's bid will be entered when no other party makes a bid or when the last bid made will result in the property being sold for less than the bid authorized in paragraph (f)(5) of this section. (Revised and Renumbered 08-20-93, SPECIAL PN.)

(i) When FmHA is the senior lienholder, only one bid will be entered, and that will be for the amount authorized by the State Director.

(ii) When FmHA is not the senior lienholder and OGC advises that the borrower has no redemption rights or if a deficiency judgement will be obtained, the State Director may authorize the person who will bid for the Government to make incremental bids in competition with other bidders.

§ 1955.15(f)(7)(ii) (Con.)

If incremental bidding is desired, the State Director's instructions to the bidder will state the initial bid, bidding increments, and the maximum bid.

(g) Reports on sale and finalizing foreclosure. Immediately after a foreclosure sale at which the State Director has designated a person to bid on behalf of the Government, the servicing official will furnish the State Director a report on the sale. The State Director will forward a copy of this report to OGC, and for MFH loans, to the National Office. Based on OGC's instructions, a State Supplement will provide a detailed outline of actions necessary to complete the foreclosure.

§§ 1955.16 - 1955.17 [Reserved]

§ 1955.18 Actions required after acquisition of property.

The approval official may employ the services of local designated attorneys, on a case by case basis, to process all legal procedures necessary to clear the title of foreclosed properties. Such attorneys shall be compensated at not more than their usual and customary charges for such work. Contracting for such attorneys shall be accomplished pursuant to the Federal acquisition regulations and related procurement regulations and guidance.

(a) Reporting acquisition. When real or chattel property is acquired by the Government, the servicing official will process Form RD 1955-3, "Advice of Property Acquired," and Form RD 1955-3A, "Acquired Property Maintenance," or Form RD 1965-19, "Multiple Family Housing Advice of Mortgaged Real Estate Acquired," and Form RD 1944-55, "Multiple Family Housing Transfer of Rental Assistance," (if the project has had rental assistance units), according to the FMI immediately after a voluntary conveyance is closed, a foreclosure sale is completed, or property is acquired by any other means. The date of acquisition will be the date the deed to the Government is recorded for a voluntary conveyance; the date of the foreclosure sale. For FSA properties only, the date of acquisition will be the date the deed to the Government is recorded for a voluntary conveyance or foreclosure sale; or for chattels, the date the bill of sale (and title, if applicable) is executed transferring ownership to FSA. Form RD 1955-3 and Form RD 1955-3A or Form RD 1965-19 will be processed promptly without waiting for the final report on sale from OGC where required. A property identification number will be assigned in accordance with the respective FMI. For MFH loans, the State Director will forward a copy of Form RD 1965-19 to the National Office for monitoring purposes. For MFH projects with rental

assistance, Form RD 1944-55 must be attached to Form RD 1965-19 indicating the status of the rental assistance while the property is in inventory. The county official will report the acquisition of farm property to the appropriate FSA official by memorandum so that any allotments, marketing quotas or acreage bases established for the property will not lapse, terminate, be reduced or otherwise be adversely affected while the property is in inventory. The State Director will report any adverse affects on allotments, marketing quotas or acreage bases on any farm inventory property to the Administrator.
(Revised 08-20-97, PN 280.)

(b) Existing lease. If property acquired by Rural Development is under an existing written lease, a copy of the lease will be placed in the case file. Any oral lease will be reduced to writing on Form RD 1955-20, "Lease of Real Property." A lease account will be established in the Finance Office records. If an existing lease is terminated by foreclosure, a new lease may be considered pursuant to § 1955.66 of Subpart B of this part, except for MFH property for which leasing as a project is generally not authorized.

(1) The servicing official will notify the lessee in writing that the Government has acquired the former lessor's rights under the lease and direct the lessee to remit all payments to Rural Development. Receipts for collections will read: "Lease proceeds from property formerly owned by (borrower's name and case number) and leased to (lessee's name)." All lease proceeds collected will be remitted according to RD Instruction 1951-B.

(2) Payments under an existing lease which were due and payable before the date the property is acquired will be applied to any unsatisfied balance on the Rural Development account. If there is a surplus, the Finance Office will forward a refund check payable to the former borrower to the County or District Office for delivery to the former borrower.

(3) Payments under an existing lease which are due and payable after the date the property is acquired will be applied to the lease account.

(c) Existing management agreement. For MFH and C&BP, if a property is being managed on behalf of the borrower prior to acquisition, the State Director will request the assistance of the National Office in

§ 1955.18(c) (Con.)

determining if the agreement should be cancelled or extended. In any event, management services should be obtained as soon as possible in accordance with §1955.65 of Subpart B of this part.

(d) Inventory account. The Finance Office will establish an inventory account under the Property ID Number assigned. The value of the property entered into the inventory account will be the market value as of the date acquired. A suspend code may be established or removed from an acquired property record by completion of Form FmHA 1955-3D, "Acquired Property - Suspend Code," in accordance with the FMI. (Revised 06-28-95, PN 247.)

(10-14-88) SPECIAL PN

§ 1955.18 (Con.)

(e) Credit to the borrower's account or foreclosure judgment account.(1) For SFH accounts. When Rural Development acquired the property, the account will be satisfied unless:

(i) In a voluntary conveyance case where the debt exceeds the market value of the property and the borrower is not released from liability, in which case the account credit will be the market value (less outstanding liens if any); or

(ii) In a foreclosure when the bid is less than the account balance and a deficiency judgment will be sought for the difference, in which case the account credit will be the amount of Rural Development's bid.

(2) For all types of accounts other than SFH. When the Agency acquired the property, the account credit will be as follows:

(i) In a voluntary conveyance case:

(A) Where the market value of the property equals or exceeds the debt or where the borrower is released from liability for any difference, the account will be satisfied.

(B) When the debt exceeds the market value of the property and the borrower is not released from liability, the account credit will be the market value (less outstanding liens, if any).

(ii) In a foreclosure, the account credit will be the amount of the Agency's bid except when incremental bidding as provided for in § 1955.15(f)(7)(ii) of this subpart was used, in which case the account credit will be the maximum bid that was authorized by the State Director. (Revised 08-20-93, SPECIAL PN.)

(3) For all types of accounts when the Agency did not acquire the property. The sale proceeds will be handled in accordance with applicable State laws with the advice and assistance of OGC, including remittance of funds, application of the borrower's account credit, and disbursement of any funds in excess of the amount due the Agency.

(4) In cases where the Agency acquired security property by means other than voluntary conveyance or foreclosure. In these cases, such as conveyance by a bankruptcy trustee or by Court Order, the account credit will be as follows:

(i) If the market value of the acquired property equal or exceeds the debt, the account will be satisfied.

(ii) If the debt exceeds the market value of the acquired property, the account credit will be the market value.

(f) Unsatisfied account. Farmer Program loan borrowers will be sent a letter similar to Exhibit F of this subpart. Unsatisfied account balances will be settled in accordance with Subparts B or C of Part 1956 of this chapter or the account will be reclassified to collection-only. The Appropriate field office will process active to collection-only via the Agency field office terminal system. After reclassification to collection-only, Form RD 450-10, "Advice of Borrower's Change of Address, Name, Case Number, or Loan Number," or for MFH, Form RD 1944-54, "Multiple Family Housing Change of Borrower Name/Address/Case Number/Project Number/Loan Number," will be submitted to the Finance Office to furnish the borrower's new address, if known. Collection-only accounts will be serviced in accordance with § 1951.7 of Subpart A of Part 1951 of this chapter. (Revised 11-10-99, PN 312.)

(g) Deficiency judgment. When a deficiency judgment is to be sought, the State Director will initiate action pursuant to § 1962.49 of Subpart A of Part 1962 of this chapter. When a judgement is obtained, the State Director will prepare Form RD 1962-20 in accordance with FMI to establish a judgment account to be serviced pursuant to § 1962.49(e) of Subpart A of Part 1962 of this chapter. The field office will process the judgment or the third party judgment via the field office terminal system. If attempts to obtain a judgment are not successful, the remaining debt will be settled or serviced pursuant to § 1951.7 of Subpart A of Part 1951 of this chapter. (Revised 08-29-90, PN 143.)

(h) Homestead protection. Not later than the date of acquisition of a real property by FSA, the County official will notify the borrower-owner of homestead protection rights by sending Exhibit M of FSA transferred Instruction 1951-S to the borrower-owner certified mail, return receipt requested. (Revised 11-10-99, PN 312.)

§ 1955.18 (Con.)

(i) Priority disposal of inventory property. Before any farm property which secured a Farmer Program loan is sold, the County official shall initially attempt to dispose of the property in accordance with the Homestead Protection program (see Subpart S of Part 1951 of this chapter). After the former owner/operator's rights have been concluded, the County official will dispose of the property in accordance with Subpart C of this part. (Renumbered and revised 08-20-97, PN 280.)

(j) Debt Settlement. For FP cases, the County Supervisor should debt settle any remaining Agency indebtedness in accordance with Subpart B of Part 1956 of this chapter. (Renumbered 08-20-97, PN 280.)

(k) Effect of acquisition on tenants in multi-family projects.
(Renumbered 08-20-97, PN 280.)

(1) After Rural Development acquires title to the project, tenant leases and renewals will be continued and managed in accordance with the provisions of Subpart B of Part 1924 of this chapter.

(2) If the project is subsequently sold to a purchaser not using Rural Development financing, but is considered needed for affordable housing purposes, restrictive-use provisions will be inserted in the deed. The purchaser will be expected to operate the project in accordance with the applicable provisions of Subpart B of Part 1924 and Subpart E of Part 1965 of this chapter. RD Guide Letter 1965-E-5 will be required to remain posted at the project.

§ 1955.19 [Reserved]

§ 1955.20 Acquisition of chattel property.

Every effort will be made to avoid acquiring chattel property by having the borrower or the Agency liquidate the property according to Subpart A of Part 1962 of this chapter and apply the proceeds to the borrower's account(s). Methods of acquisition authorized are:

(a) Purchase at the following types of sale:

- (1) Execution sale conducted by the U.S. Marshal, sheriff or other party acting under Court order to satisfy judgment liens.
- (2) Agency foreclosure sale conducted by the U.S. Marshal or sheriff in States where a State Supplement provides for sales to be conducted by them.
- (3) Sale by trustee in bankruptcy.
- (4) Public sale by prior lienholder.
- (5) Public sale conducted under the terms of Form RD 455-4, "Agreement for Voluntary Liquidation of Chattel Security," the power of sale in security agreements or crop and chattel mortgage, or similar statements, if authorized by State Supplement.

(b) Voluntary conveyance. Voluntary conveyance of chattels will be accepted only when the borrower can convey ownership free of other liens and the borrower can be released from liability under the conditions set forth in § 1955.10(f)(2) or (3) of this Subpart. Payment of other lienholders' debts by the agency in order to accept voluntary conveyance of chattels is not authorized. Before a voluntary conveyance from a Farmer Program loan borrower can be accepted, the borrower must be sent Exhibit A with Attachments 1 and 2 of Subpart S of Part 1951 of this chapter.

(1) Offer. The borrower's offer of voluntary conveyance will be made on Form RD 1955-1. If it is determined the conveyance offer can be accepted, the borrower will execute a bill of sale itemizing each item of chattel property being conveyed and will provide titles to vehicles or other equipment, where applicable.

(2) Acceptance of offer and release from liability. Before accepting an offer to convey chattels to the Agency, the concurrence of the State Director must be obtained. When chattel security is voluntarily conveyed to the Government and the borrower and cosigner(s), if any, are to be released from liability, the

§ 1955.20(b)(2) (Con.)

servicing official will stamp the note(s) "Satisfied by Surrender of Security and Borrower Released from Liability." When the Agency debt less the market value and prior liens is \$1 million or more (including principal, interest and other charges), release of liability must be approved by the Administrator or designee; otherwise, the State Director must approve the release of liability. All cases requiring a release of liability will be submitted for review in accordance with Exhibit A of subpart B of Part 1956 of this chapter (available in any CFSA Office). Form RD 1955-1 will be executed by the servicing official showing acceptance by the Government, and the satisfied note(s) and a copy of Form RD 1955-1 will be furnished to the borrower. (Revised 05-31-95, PN 246.)

(3) Release of lien(s). When an offer has been accepted as outlined in paragraph (b)(2) of this section, the servicing official will release any liens of record which secured the satisfied indebtedness.

(4) Rejection of offer. If it is determined an offer of voluntary conveyance will not be accepted, the servicing official will indicate on Form RD 1955-1 that the offer is rejected, execute the form, and furnish a copy to the borrower.

(c) Attending sales. The servicing official will:

(1) Attend all sales described in paragraph (a)(5) of this section unless an exception is authorized by the State Director because of physical danger to the CFSA employee or adverse publicity would be likely.

(10-14-88) SPECIAL PN

(2) Attend public sales by prior lienholders when the market value of the chattel property is significantly more than the amount of the prior lien(s).

(3) Obtain the advice of the State Director on attending sales described in paragraphs (a)(1), (2) and (3) of this section.

(d) Appraising chattel property. Prior to the sale, the servicing official will appraise chattel property using Form RD 440-21, "Appraisal of Chattel Property." If a qualified appraiser is not available to appraise chattel property, the State Director may obtain an appraisal from a qualified source outside FmHA by contract in accordance with RD Instruction 2024-A (available in any FmHA Office).

(e) Abandonment of security interest. The State Director may authorize abandonment of the Government's security interest when chattel property, considering costs of moving or rehabilitation, has no market value and obtaining title would not be in the best interest of the Government.

(f) Bidding at sale.

(1) The servicing official is authorized to bid at sales described in paragraph (a) of this section. Ordinarily, only one bid will be made on items of chattel security unless the State Director authorizes incremental bidding. Bids will be made only when no other party bids or when it appears bidding will stop and the property will be sold for less than the amount of the Government's authorized bid. When the State Director determines attendance of an FmHA employee might pose physical danger, a written bid may be submitted to the party holding the sale. The bid(s) will be the lesser of:

(i) The market value of the item(s) less the estimated costs involved in the acquisition, care, and sale of the item(s) of security; or

(ii) The unpaid balance of the borrower's secured FmHA debt plus prior liens, if any.

(2) Bids will not be made in the following situations unless authorized by the State Director:

(i) When chattel property under prior lien has a market value which is not significantly more than the amount owed the prior lienholder. If FmHA holds a junior lien on several items of chattel property, advice should be obtained from the State Director on bidding.

RD Instruction 1955-A
§1955.20(f)(2) (Con.)

(ii) After sufficient chattel property has been bid in by FmHA to satisfy the FmHA debt; prior liens, and costs of the sale.

(iii) When the sale is being conducted by a lienholder junior to FmHA.

(iv) At a private sale.

(v) When the sale is being conducted under the terms of Form RD 455-3, "Agreement for Sale by Borrower (Chattels and/or Real Estate)."

(g) Payment of costs. Costs to be paid by FmHA in connection with acquisition of chattel property will be paid as outlined in §1955.5(d) of this subpart as recoverable costs. NOTE: Payment of other lienholders, debts in connection with voluntary conveyance of chattels is not authorized.

(h) Reporting acquisition of chattel property. Acquisition of chattel property will be reported by use of Form RD 1955-3 processed in accordance with the FMI.

§1955.21 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart or address any omission of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that the Government's interest would be adversely affected or the immediate health and/or safety of tenants or the community are endangered if there is no adverse effect on the Government's interest. The Administrator will exercise this authority upon the request of the State Director with recommendation of the appropriate program Assistant Administrator; or upon request initiated by the appropriate program Assistant Administrator. Requests for exceptions must be made in writing and supported with documentation to explain the adverse effect, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

§1955.22 State Supplements.

State Supplements will be prepared with the assistance of OGC as necessary to comply with State laws or only as specifically authorized in this regulation to provide guidance to FmHA officials. State Supplements will be submitted to the National Office for post approval in accordance with RD Instruction 2006-B (available in any FmHA Office).

§§1955.23 - 1955.49 [Reserved]

§1955.50 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575-0109. Public reporting burden for this collection of information is estimated to vary from 5 minutes to 5 hours per response, with an average of .56 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB #0575-0109), Washington, DC 20503. (Revised 02-13-92, SPECIAL PN.)

Attachments: Exhibits A, B, C, D, E, E-1, F, G, G-1, H, I, and J.

oOo

FmHA 1955-A, Exhibit A not automated

FORMAT FOR NOTICE OF ACCELERATION TO BORROWERS OTHER THAN FP AND MFH
PERSONALLY LIABLE FOR THE DEBT. (EXCLUDES BORROWERS WHO WERE DISCHARGES IN
BANKRUPTCY AND DID NOT REAFFIRM THE DEBT.)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
(Name and Address)

Subject: NOTICE OF ACCELERATION OF YOUR DEBT TO THE FARMERS HOME
ADMINISTRATION, DEMAND FOR PAYMENT OF THAT DEBT, AND NOTICE
OF YOUR OPPORTUNITY TO HAVE A HEARING CONCERNING THIS ACTION.

Dear

PLEASE TAKE NOTE that the entire indebtedness due on the promissory note(s)
and/or assumption agreement(s) which evidence the loan(s) received by you from
the United States of America, acting through the Farmers Home Administration,
United States Department of Agriculture is now declared immediately due and
payable. They are described as follows:

<u>Date of Instrument</u>	<u>Amount</u>
---------------------------	---------------

The promissory note(s) and/or assumption agreement(s) is (are) secured by real
estate mortgage(s) [or deed(s) of trust] described as follows:

<u>Date of Instrument</u>	<u>Place of Recordation</u>	<u>Recorded In:</u> <u>Book No. Page No.</u>
---------------------------	-----------------------------	---

This acceleration of your indebtedness is made in accordance with the authority granted in the above-described real estate instrument(s).

The reason(s) for this acceleration of your indebtedness is(are) as follows:

[If the account is in monetary default, list this as one reason for accelerating. If the account is not in monetary default, see §1955.15(d)(2)(ii) of this subpart.]

The indebtedness due is \$ unpaid principal, and \$ unpaid interest, as of 19 , plus additional interest accruing at the rate of \$ per day thereafter, plus any advances to be made by the United States for the protection of its security and interest accruing on any such advances, and the amount of subsidy to be recaptured in accordance with the Subsidy Repayment Agreement on the loan(s) which is(are) subject to recapture. Unless full payment of your indebtedness is received within 30 days from the date of this letter, the United States will take action to foreclose the above described real estate instrument and to pursue any other available remedies.

Payment should be made by cashier's check, certified check, or postal money orders, to the County Supervisor of the Farmers Home Administration. If you submit to the United States any payment insufficient to pay the entire indebtedness or insufficient to comply with any arrangements agreed to between the Farmers Home Administration and yourself, that payment WILL NOT CANCEL the effect of this notice. If insufficient payments are received and credited to your account, no waiver or prejudice of or rights which the United States may have for breach of any promissory note or covenant in the real estate instrument will result are the Farmers Home Administration may proceed as though no payment had been made.

[The above-described real estate instrument provides that the United States may foreclose without Court action by selling the real estate at public sale after . The Government intends to sell the property in this manner. No further notice is required to be given you concerning this foreclosure.] (This paragraph will be omitted in States with judicial foreclosure or where it conflicts with State laws.)

However, you have the opportunity to have an informal meeting with the decision maker (the undersigned) and/or an administrative appeal hearing before the foreclosure takes place. This is an opportunity to discuss why you believe the United States is in error in accelerating your account(s) and proceeding with foreclosure. If you desire to have an informal meeting with the decision maker or have any questions concerning the decision and/or facts used in making our decision, you should contact this office in writing to request a meeting. The request for an informal meeting must be

sent to the undersigned no later than (give date 15 days after the mailing of the letter). Requests which are postmarked by the U.S. Postal Service on or before that date will be considered as timely received. You also have the right to an administrative appeal hearing with a hearing officer in lieu of, or in addition to, a meeting with this office. If you request an informal meeting with the decision maker, and the meeting does not result in a decision in which you concur, you will be given a separate time frame in which to submit your request for an administrative appeal. See the attachment for your appeal rights.

If you do not wish to have an informal meeting with the decision maker as outlined above, you may request an administrative appeal hearing with a member of the National Appeals Staff. The request for an administrative appeal must be sent to the National Appeals Staff, Area Supervisor, (show complete mailing address), no later than (give date 30 days after the mailing of the letter). Requests which are postmarked by the U.S. Postal Service on or before that date will be considered as timely received. If requesting an administrative appeal, please include a copy of this letter with your request.

If you fail to comply with the requirements outlined herein, the United States plans to proceed with foreclosure.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

UNITED STATES OF AMERICA

BY_____

[*]

Farmers Home Administration

United States Department of
Agriculture

Date:_____

Attachment

*Insert title of FmHA official authorized

in \$1955.15 of this subpart to accelerate
the account, depending on loan type.

(ATTACH A COPY OF Form RD 1900-1)

(2-15-89) PN 102

FORMAT FOR NOTICE OF ACCELERATION TO BORROWERS OTHER THAN FP AND MFH
DISCHARGED IN BANKRUPTCY WHO HAVE NOT REAFFIRMED THE DEBT.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
(Name and Address)

Subject: NOTICE OF ACCELERATION OF YOUR FARMERS HOME ADMINISTRATION
ACCOUNT AND NOTICE OF YOUR OPPORTUNITY TO HAVE A HEARING
CONCERNING THIS ACTION

Dear

PLEASE TAKE NOTE that the Farmers Home Administration intends to enforce its real estate [mortgage(s), deed(s) of trust, etc.] given or assumed by you as security for the following-described promissory note(s) and/or assumption agreement(s) and declares the indebtedness immediately due and payable.

<u>Date of Instruments</u>	<u>Amount</u>
----------------------------	---------------

The security instrument(s) referred to above are described as follows:

<u>Date of Instrument</u>	<u>Place of Recordation</u>	<u>Recorded In:</u> <u>Book No. Page No.</u>
---------------------------	-----------------------------	---

The decision to foreclose is made in accordance with the authority granted in the above-described real estate instrument(s) for the following reason(s):

[If the account is in monetary default, list this as one reason for accelerating. If the account is not in monetary default, see §1955.15 (d)(2)(ii) of this subpart.]

The balance of the account is \$_____ unpaid principal, and
\$_____ unpaid interest, as of 19____, plus additional

interest accruing at the rate of \$_____ per day thereafter, plus any advances to be made by the United States for the protection of its security, the interest accruing on any such advances, and the amount of subsidy to be recaptured in accordance with the Subsidy Repayment Agreement on the loan(s) which is(are) subject to recapture.

Unless full payment of this account is received within 30 days from the date of this letter, the United States will take action to foreclose under the authority granted in the above-described instrument(s) and to pursue any other available remedies. Payment should be made by cashier's check, certified check, or postal money orders, to the County Supervisor of the Farmers Home Administration.

If you submit to the United States any payment insufficient to pay the account in full or insufficient to comply with any arrangements agreed to between the Farmers Home Administration and yourself, that payment WILL NOT CANCEL the effect of this notice. If insufficient payments are received and credited to your account, no waiver or prejudice of any rights which the United States may have for breach of any promissory note or covenant in the real estate instrument will result and the Farmers Home Administration may proceed as though no such payments had been made.

[The above-described real estate instrument provides that the United States may foreclose without Court action by selling the real estate at public sale after _____. The Government intends to sell the property in this manner. No further notice is required to be given you concerning this foreclosure.] (This paragraph will be omitted in States with judicial foreclosure or where it conflicts with State law.)

However, you have the opportunity to have an informal meeting with the decision maker (the undersigned) and/or an administrative appeal hearing before the foreclosure takes place. This is an opportunity to discuss why you believe the United States is in error in accelerating your account(s) and proceeding with foreclosure. If you desire to have an informal meeting with the decision maker or have any questions concerning the decision and/or facts used in making our decision, you should contact this office in writing to request a meeting. The request for an informal meeting must be sent to the undersigned no later than (give date 15 days after the mailing of the letter). Requests which are postmarked by the U.S. Postal Service on or before that date will be considered as timely received. You also have the right to an administrative appeal hearing with a hearing officer in lieu of, or in addition to, a meeting with this office. If you request an informal meeting with the decision maker, and the meeting does not result in a decision in which you concur, you will be given a separate time frame in which to submit your request for an administrative appeal. See the attachment for your appeal rights.

If you do not wish to have an informal meeting with the decision maker as outlined above, you may request an administrative appeal hearing with a member of the National Appeals Staff. The request for an administrative appeal must be sent to the National Appeals Staff, Area Supervisor, (show complete mailing address), no later than (give date 30 days after the mailing of the letter). Requests which are postmarked by the U.S. Postal Service on or before that date will be considered as timely received. If requesting an administrative appeal, please include a copy of this letter with your request.

If you fail to comply with the requirements outlined herein, the United States plans to proceed with foreclosure.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal Agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

UNITED STATES OF AMERICA

BY _____

[*]

Farmers Home Administration
United States Department of
Agriculture

Date: _____

Attachment

*Insert title of FmHA official authorized
in §1955.15 of this subpart to accelerate
the account, depending on loan type.

(ATTACH A COPY OF Form RD 1900-1)

(2-15-89) PN 102

NOTICE OF ACCELERATION OF FARMER PROGRAM LOAN ACCOUNTS SECURED BY REAL ESTATE
AND/OR CHATTELS IN CASES NOT INVOLVING BANKRUPTCY

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

(Name and Address)

Date

Subject: NOTICE OF ACCELERATION OF YOUR DEBT TO THE FARMERS Home
ADMINISTRATION AND DEMAND FOR PAYMENT OF THAT DEBT

Dear _____:

PLEASE NOTE that the entire indebtedness due on the promissory note(s) and/or assumption agreement(s) which evidence the loan(s) received by you from the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture is now declared immediately due and payable They are described as follows:

Date of Instrument

Amount

The promissory note(s) and/or assumption agreement(s) is(are) secured by (real estate mortgage(s), deed(s) of trust, security agreement(s), financing statement(s), etc.) described (Perfected) as follows:

Recorded In:

Book No.

Amount

Date of Instrument Place of Recordation (Filing) (Recorded under Document No.)

This acceleration of your indebtedness is made in accordance with the authority granted in the above-described instrument(s). (Revised 12-3-86, PN 33)

The reason(s) for the acceleration of your indebtedness is(are) as follows:

(If the borrower is in monetary default, list this as one reason for accelerating. If the borrower is not in monetary default, see §1955.15(d) (2) (ii).)1

The indebtedness due is \$ _____ unpaid principal, and \$ _____ unpaid interest, as of _____, 19__, plus additional interest accruing at the rate of \$____ per day thereafter, plus any advances made by the United States for the protection of its security and interest accruing on any such advances. Unless full payment of your indebtedness is received made by one of the methods described below within 30 days from the date of this letter, the United States will foreclose the above described security instrument(s) and to pursue any other available remedies.

(1) Full payment may be made in any of the following ways:

(A) CASH

Payment should be made by cashier's check, certified check, or postal money order payable to the Farmers Home Administration and delivered to the County Supervisor of the Farmers Home Administration at ____(Street Address or P.O. Box)_, _____(City)_, _____(State)_, _____(Zip)_, if you submit to the United States any payment insufficient to pay the account in full or insufficient to comply with any arrangements agreed to between the Farmers Home Administration and yourself, that payment WILL NOT CANCEL the effect of this notice. If such insufficient payments are received and credited to your account, no waiver or prejudice of any rights which the United States may have for breach of any promissory note or covenant in the security instrument(s) will result and the Farmers Home Administration may proceed as though no such payment had been made.

(B) TRANSFER AND ASSUMPTION

You may transfer the collateral for your loan(s) to someone who is willing and able to assume the debt. Contact the County Supervisor immediately if you are interested in this.

(C) SALE

You may sell the collateral for your loan(s) for its fair market value and send the proceeds to FmHA or to other creditors with liens prior to FmHA's lien. Contact the County Supervisor immediately if you are interested in this.

* (D) VOLUNTARY CONVEYANCE

You may convey all of your collateral to the Government. Contact the County Supervisor immediately if you are interested in this.

** (The above-described security instrument(s) provides that the United States may foreclose without court action by selling the property at public sale after_____, the government intends to sell the property in this manner.)

*** If you have not been advised of your rights to request deferral of payments or other servicing options you should contact the County Supervisor at the above mentioned address within 15 days of the receipt of this notice.

If you fail to comply with the requirements outlined in this notice within the next 30 days, the United States plans to proceed with foreclosure/liquidation

YOU DO NOT HAVE ANY RIGHT TO APPEAL THIS DECISION TO ACCELERATE YOUR FmHA DEBT(S) TO ANY OFFICIAL OF THE FARMERS Home ADMINISTRATION.

UNITED STATES OF AMERICA
BY_____

District Director
Farmers Home Administration
United States Department
of Agriculture

* (This will be included as an option only if it would be in the Government's financial interest to accept a voluntary conveyance offer.)

** (This paragraph will be omitted in States with judicial foreclosure or if it conflicts with State law.)

*** (This paragraph will be omitted when accelerating accounts for failure to graduate or accelerating accounts of Non Program Loan debtors.)

oOo

NOTICE OF INTENT TO FORECLOSE ON YOUR PROPERTY SERVING
AS SECURITY FOR THE UNITED STATES OF AMERICA
AND ACCELERATE FARM SERVICE AGENCY LOAN ACCOUNTS

Use only with OGC approval

Format on FSA letterhead.

CERTIFIED MAIL # _____

_____ Date

RETURN RECEIPT REQUESTED

(Name and Address)

Subject: NOTICE OF INTENT TO FORECLOSE ON YOUR PROPERTY SERVING AS
SECURITY FOR THE UNITED STATES OF AMERICA AND ACCELERATION
OF YOUR LOAN ACCOUNTS

Dear _____:

The United States of America intends to enforce its (*real estate mortgages, deeds of trust, security agreements, etc.*) given or assumed by you as security for your loans. The security instruments referred to above as described below were perfected as follows:

Date of	Place of	Recorded In:
<u>Instrument</u>	<u>Recordation (Filing)</u>	Book No. Page No.
		<u>Recorded Under Document</u>

The security instruments executed by you in favor of the United States are not affected by a discharge in bankruptcy and the security can still be foreclosed upon or liquidated to satisfy the secured debt, although a discharge under the Bankruptcy Code does render any debt discharged unenforceable as your personal obligation. If the proceeds from that sale are not sufficient to pay off the debt, the United States will not seek a personal judgment against you for any deficiency. This letter is not intended as an act to collect or recover any debt from you for which your personal obligation has been discharged, but rather is intended to inform you that the United States intends to collect as much of the secured debt as possible from the property which serves as

security for the loans made to you. In order to do so, it is necessary for your loans to be accelerated. Therefore, pursuant to the terms of the loan instruments, the United States is now exercising its option to declare your entire debt immediately due and payable. Any Farm Credit Programs family living and farm operating expenses which you may be receiving are hereby terminated.

The reasons for taking this action are as follows:

[If the loan account is in monetary default, list this as one reason for accelerating. If the loan account is not in monetary default, see §1955.15(d)(2)(ii) of this subpart.]

The loan instruments are described as follows:

<u>Date of Instrument</u>	<u>Amount</u>
---------------------------	---------------

The United States will not file its foreclosure action or liquidate its security, under the authority granted in the above-described instruments, for 30 days. During that period you may purchase the property for the present market value, which the Farm Service Agency has appraised to be \$ _____. Payment should be made by cashier's check, certified check, or postal money order payable to the Farm Service Agency and delivered to the county official at (street address, (City), (State) (Zip Code)).

* You may not stop the foreclosure by paying an amount less than the present market value.

**The above-described security instruments provide that the United States may foreclose without Court action by selling the property at public sale after _____. The Government intends to sell the property in this manner.

UNITED STATES OF AMERICA

By _____

Farm Service Agency
United States Department of
Agriculture

* [This sentence can only be used with the approval of the Regional OGC.]

**[This paragraph will be omitted in States requiring judicial foreclosure or if it conflicts with State law.]

oOo

NOTICE OF ACCELERATION OF FARMER PROGRAM LOAN ACCOUNTS SECURED BY REAL ESTATE
AND/OR CHATTELS IN CASES INVOLVING CHAPTER 11, 12, AND 13 BANKRUPTCY BORROWERS

(Use only with OGC's approval for borrowers discharged under
Chapters 11, 12, or 13)

CERTIFIED MAIL # _____
Date _____

RETURN RECEIPT REQUESTED

(Name and Address)

Subject: NOTICE OF ACCELERATION OF YOUR DEBT TO THE FARMERS HOME
ADMINISTRATION BASED ON A CONFIRMED BANKRUPTCY PLAN AND
DEMAND FOR PAYMENT OF THAT DEBT

Dear _____:

PLEASE TAKE NOTE that the entire indebtedness due under the Chapter _____
Plan confirmed on _____ in Bankruptcy Case No. _____ which
evidences the loan(s) received by you from the United States of America,
acting through the Farmers Home Administration (FmHA), United States
Department of Agriculture is now declared immediately due and payable. The
obligation set out in the Chapter ____ Plan is described as follows:

<u>Date of Obligation</u>	<u>Amount</u>
---------------------------	---------------

The amount(s) set out in the confirmed Chapter ____ Plan is/are secured by
[real estate mortgage(s), deed(s) of trust, security agreement(s), financing
statement(s), etc.] described (perfected) as follows:

<u>Date of</u>	<u>Place of</u>	<u>Recorded In:</u>
<u>Instrument</u>	<u>Recordation (Filing)</u>	<u>Book No. Page No.</u>
		<u>(Recorded under Documents No.)</u>

The acceleration of your indebtedness is made in accordance with the authority
granted in the above-described instrument(s). Although, this is not an
acceleration of your debt owed to the FmHA prior to confirmation of the
Chapter ____ Plan, it is fully effective to accelerate the debt as set out in
the Chapter ____ Plan.

The reason(s) for the acceleration of your indebtedness is(are) as follows:

(12-16-92) PN 196

[If debt under the confirmed Chapter ____ Plan is in monetary default, list this as one of the reasons. If the debt is not in monetary default, see §1955.15 (d)(2)(ii) of this subpart.]

The indebtedness due as result of your Chapter ____ Plan is \$ _____ unpaid principal, and \$ _____ unpaid interest, as of _____, 19____, plus additional interest accruing at the rate of \$_____ per day thereafter, plus any advances made by the United States for the protection of its security and interest accruing on any such advances. Unless full payment of your indebtedness is received, made by one of the methods described below, within 30 days from the date of this letter, the United States will foreclose the above described security instrument(s) and pursue any other available remedies.

Full payment may be made in any of the following ways:

(A) CASH

Payment should be made by cashier's check, certified check, or postal money order payable to the Farmers Home Administration and delivered to the FmHA County Supervisor at _____ (Street Address or P.O. Box), _____ (City), _____ (State) _____ (Zip Code) _____. If you submit to the United States any payment insufficient to pay the account in full or insufficient to comply with any arrangements agreed to between the Farmers Home Administration and yourself, that payment WILL NOT CANCEL the effect of this notice. If such insufficient payments are received and credited to your account, no waiver or prejudice of any rights which the United States may have for breach of any promissory note or debt evidenced by your confirmed Chapter ____ Plan or covenant in the security instrument(s) will result and the Farmers Home Administration may proceed as though no such payment had been made.

(B) TRANSFER AND ASSUMPTION

Subject to FmHA approval, you may transfer the collateral for your debt to someone who is eligible for FmHA assistance and is willing and able to assume the debt. Contact the County Supervisor immediately if you are interested in this.

(C) SALE

You may sell the collateral for your loan(s) for its fair market value and send the proceeds to FmHA to or other creditors with liens prior to FmHA's lien. Contact the County Supervisor immediately if you are interested in this.

*(D) VOLUNTARY CONVEYANCE

You may convey all of your collateral to the Government. Contact the County Supervisor immediately if you are interested in this.

** (The above-described security instrument(s) provide(s) that the United States may foreclose without Court action by selling the property at public sale after _____. The Government intends to sell the property in this manner.)

***If you have not been advised of your rights to request deferral of payments or other servicing options you should contact the County Supervisor at the above-mentioned address within 15 days of the receipt of this notice.

If you fail to comply with the requirements outlined in this notice within the next 30 days, the United States plans to proceed with foreclosure/liquidation.

YOU DO NOT HAVE ANY RIGHT TO APPEAL THIS DECISION TO ACCELERATE YOUR FmHA DEBT(S) TO ANY OFFICIAL OF THE FARMERS HOME ADMINISTRATION.

UNITED STATES OF AMERICA

BY _____

District Director
Farmers Home Administration
United States Department of
Agriculture

* [This will be included as an option only if it would be in the Government's financial interest to accept a voluntary conveyance offer.]

** [This paragraph will be omitted in States with judicial foreclosure or if it conflicts with State law.]

*** [This paragraph will be omitted when accelerating accounts for failure to graduate or accelerating accounts of Non-program loan debtors.]

o0o

Note to Agency Official:

This Exhibit should be used
when required by Instruction.

RD Instruction 1955-A

Exhibit F

Page 1

**NOTICE ADVISING OF POTENTIAL FOR REFERRAL TO TREASURY FOR
CROSS-SERVICING AND THE AVAILABILITY OF DEBT SETTLEMENT**

Dear (Borrower's Name):

Farm Service Agency (FSA) records show that you owe debt totaling \$_____ with daily interest accrual of \$_____. In accordance with the Debt Collection Act, 31 U.S.C. Chapter 37, FSA is prepared to refer your debt to the U.S. Department of Treasury (Treasury) for collection through cross-servicing. Referral of debt to Treasury for cross-servicing is not an appealable action. If your debt is referred for cross-servicing, Treasury may:

- take action to collect the debt by offset or garnishment, including offset of tax refunds and garnishment of salary,
- refer the debt to a private collection agency for collection, or
- refer the debt for collection by the U.S. Department of Justice.

Collection fees may be charged to you when collections are made. In addition, FSA will report the debt to a credit bureau.

FSA will refer your debt for cross-servicing unless you submit Form FSA 1956-1, "Application for Settlement of Indebtedness", to this office within 30 days from the date of this letter. A copy of this form is included. All statements made on this document must be accurate and will be subject to verification.

FSA has several programs which could allow you to settle the remaining debt for less than the total amount due. You must be unable to pay your FSA debt in full. All programs are subject to the discretion of the Agency and are not a matter of entitlement or right.

Available Programs

- | | |
|---------------------|---|
| 1) Compromise Offer | A lump-sum payment of less than the total debt owed. |
| 2) Adjustment Offer | A series of payments of less than the total debt owed paid over a maximum of five years. |
| 3) Cancellation | The final settlement of a debt without any payment. FSA must verify that there is no income or other assets from which the Government can collect. You must be unable to pay any part of the debt now or in the future. |

NOTE: FSA will not finance a compromise or adjustment offer.

If you submit a debt settlement application within 30 days of the date of this letter, and the application is rejected, your account will be referred to Treasury for cross-servicing after all appeal rights on the debt settlement application are exhausted. After your account is referred to Treasury, any debt settlement offer must be submitted to Treasury, or its contracted private collection agency. If Treasury refers your account to the Department of Justice for collection, your offer must be made to the Department of Justice.

If you have any questions about this notice, please contact this office at (local office phone number).

Sincerely,

(Agency Official)

WORKSHEET FOR ACCEPTING A VOLUNTARY CONVEYANCE OF FARM CREDIT PROGRAMS
SECURITY PROPERTY INTO INVENTORY

(present owner/borrower)

Refer to Exhibit I in FSA Transferred Instruction 1951-S for guidance in estimating the incomes and expenses to use in this exhibit. The holding period to be used is 105 days (3.5 months).

1. MARKET VALUE OF PROPERTY \$ _____
(Part 7, Form RD 1922-1)

ESTIMATED HOLDING PERIOD IN YEARS _____

2. INCOME

a. Annual Rent _____ Holding
x Period _____ = _____

b. Annual Royalties _____ Holding
x Period _____ = _____

c. Other Annual _____ Holding
Income _____ x Period _____ = _____

d. Annual % _____ Holding
Land Appreciation _____ x Period _____ = _____

e. Value gained due to restrictions that are placed on the
farm such as Conservation Easements, Conservation Reserve
Program (CRP), etc.
= _____

f. Other (describe) _____ Holding
x Period _____ = _____

TOTAL ADDITIONS = \$ _____

3. EXPENSES

a. Total Prior Lienholder Indebtedness (P and I) = _____

b. Other Acquisitions Costs (taxes presently owed, closing costs,
survey costs, administrative costs, junior liens, etc.) List:

_____ = _____

- c. Annual Taxes Holding
& Assessment _____ x Period _____ = _____
- d. Annual Building Holding
Depreciation _____ x Period _____ = _____
- e. Annual Holding
Management Costs _____ x Period _____ = _____
- f. Total Essential Repairs to Secure & Resell = _____
- g. Annual % Decrease Holding
In Land Value _____ x Period _____ = _____
(if applicable)
- h. Total Anticipated Resale Expenses (Commissions, Advertising, etc.)
= _____
- i. Total Interest Cost
- MKT Value Regular* Holding
\$ _____ x OL Rate _____ x Period = _____
- j. Value loss due to restrictions that are placed on the farm such as
conservation, easements, etc., and CRP, etc.
= \$ _____
- k. Hazardous Waste Clean-up Costs = _____
- TOTAL DEDUCTIONS (ITEMS A THROUGH K) = _____

4. RECOVERY VALUE END OF HOLDING PERIOD

1. _____ + 2. _____ - 3. _____ = _____
Market Total Total Recovery
Value Additions Deductions Value

County Official

Date

Concurrence by:

State Executive Director

Date

*The regular operating loan rate more nearly reflects the Government's costs of money.

WORKSHEET FOR DETERMINING FARM CREDIT PROGRAMS MAXIMUM
BID ON REAL ESTATE PROPERTY

(present owner/borrower)

Refer to Exhibit I in FSA Transferred Instruction 1951-S for guidance in estimating the incomes and expenses to be used in this exhibit. The holding period to be used is 105 days (3.5 months).

1. MARKET VALUE OF PROPERTY \$ _____

(Part 7, Form RD 1922-1)

ESTIMATED HOLDING PERIOD IN YEARS _____

2. INCOME

a. Annual Rent _____ \times $\frac{\text{Holding}}{\text{Period}}$ _____ = _____

b. Annual Royalties _____ \times $\frac{\text{Holding}}{\text{Period}}$ _____ = _____

c. Other Annual _____ \times $\frac{\text{Holding}}{\text{Period}}$ _____ = _____
Income _____

d. Annual % _____ \times $\frac{\text{Holding}}{\text{Period}}$ _____ = _____
Land Appreciation _____

e. Value gained due to restrictions that are placed on the
farm such as Conservation Easements, Conservation Reserve
Program (CRP), etc. = \$ _____

f. Other (describe) _____ \times $\frac{\text{Holding}}{\text{Period}}$ _____ = _____

TOTAL ADDITIONS = \$ _____

3. EXPENSES

a. Total Prior Lienholder Indebtedness (P and I) = _____

b. Other Acquisitions Costs (taxes presently owed, closing costs, survey costs, administrative costs, etc.) List:

_____ = _____

c. Annual Taxes Holding
& Assessment _____ x Period _____ = _____

d. Annual Building Holding
Depreciation _____ x Period _____ = _____

e. Annual Holding
Management Costs _____ x Period _____ = _____

f. Total Essential Repairs to Secure & Resell = _____

g. Annual % Decrease Holding
in Land Value _____ x Period _____ = _____
(if applicable)

h. Total Anticipated Resale Expenses (Commissions, Advertising, etc.) = _____

i. Total Interest Cost

MKT Value Regular* Holding
\$ _____ x OL Rate _____ x Period _____ = _____

j. Value loss due to restrictions that are placed on the farm such as Conservation Easements, Conservation Reserve Program (CRP), etc. = \$ _____

k. Hazardous Waste Clean-up Costs = _____

TOTAL DEDUCTIONS (ITEMS A THROUGH K) = _____

4. BID WILL BE THE LESSER OF:

a. 1. _____ + 2. _____ - 3. _____ = _____
Market Total Total Total
Value Additions Deductions

or,

b. _____ + _____ = _____
Unpaid FSA Prior Liens
Balance on
Secured Debt Total

County Official

Date

Concurrence by:

State Executive Director

Date

*The regular operating loan rate more nearly reflects the Government's costs of money.

o0o

Release of a Junior Lien on HUD/FmHA Joint SFH Security

BACKGROUND

On August 23, 1991, Farmers Home Administration (FmHA) entered into a Memorandum of Understanding with the Department of Housing and Urban Development (HUD) regarding the release of a junior lien held by one agency when the other forecloses a prior lien or accepts a deed in lieu of foreclosure.

WHEN FmHA IS THE SENIOR LIENHOLDER

When FmHA requires release of a HUD junior lien to foreclose or accept a deed in lieu of foreclosure, the State Director submits the request to the National Office, Attention: Single Family Housing, Servicing and Property Management (SFH/SPM) Division, with the following documentation:

1. A copy of FmHA's mortgage or deed of trust.
2. A title opinion indicating FmHA holds a valid first lien.
3. A copy of a current appraisal.
4. The State Director's estimate of the junior lien's value.
5. If applicable, a copy of the deed which will transfer ownership to FmHA.

For a valueless lien, the National Office obtains HUD's release and returns it to the State Director for recordation. For a partially secured lien when FmHA will foreclose, the National Office obtains HUD's agreement to be named in FmHA's foreclosure suit allowing proceeds to be distributed by lien priority. The State Director will be advised of the disposition of the request.

WHEN HUD IS THE SENIOR LIENHOLDER

A field office which receives a request from HUD to release a junior FmHA lien forwards it through the State Director, to the National Office, Attention: SFH/SPM Division, with the following documentation:

1. The appropriate release form.
2. The State Director's estimate of the junior lien's value.
3. A copy of HUD's mortgage or deed of trust.
4. A copy of a current appraisal, either by HUD or FmHA.
5. If applicable, a copy of the deed transferring ownership to HUD.
6. A title opinion indicating HUD holds a valid first lien.
7. A letter or memorandum from HUD indicating the current unpaid balance of the loan(s) secured by the HUD senior lien.

(11-24-93) PN 215

RD Instruction 1955-A
Exhibit J
Page 2

For a valueless lien, the National Office will execute the release. For a partially secured lien when HUD will accept a deed in lieu of foreclosure, the National Office will negotiate a settlement amount for a release. For a partially secured lien when HUD will foreclose, the National Office will agree to be named in HUD's foreclosure suit allowing proceeds to be distributed by lien priority. The State Director will be advised of the disposition of HUD's request.

oOo